

**FIFTY-SEVENTH DAY**

(Tuesday, April 23, 1957)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Martin
Ashley	Moffett
Bracewell	Moore
Bradshaw	Owen
Fly	Parkhouse
Fuller	Phillips
Gonzalez	Ratliff
Hardeman	Reagan
Hazlewood	Roberts
Herring	Rogers
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis
Lock	Wood

**Absent—Excused**

Colson

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Thursday, April 18, 1957, was approved.

**Leave of Absence**

Senator Colson was granted leave of absence for today on account of important business on motion of Senator Aikin.

**Message from the House**

Hall of the House of Representatives,  
Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 876, A bill to be entitled "An Act to amend Chapter 58, Acts of the 52nd Legislature, Regular Session, 1951 (codified as Article 326K-15, Vernon's Texas Civil Statutes), to provide an additional compensation to the District Attorney

of the 79th Judicial District, and providing for payment thereof; to authorize the District Attorney of the 79th Judicial District, with approval of the Commissioners Courts of the counties comprising the 79th Judicial District, to appoint a First and Second Assistant District Attorney of said district, fixing their compensation, duties, and qualifications, and providing the manner of payment of their compensation; to provide for special assignment of one of the Assistant District Attorneys to one or more counties in the 79th Judicial District, and prescribing the manner of payment of his salary in this event; to authorize appointment of a stenographer to the District Attorney of the 79th Judicial District, providing for her appointment, compensation, and mode of payment of compensation; providing a severability clause; and declaring an emergency."

H. B. No. 879, A bill to be entitled "An Act authorizing and directing the Board of Regents of the North Texas State College of Denton, Texas, acting by the president of said college, to execute and deliver to the City of Denton, Texas, an easement across certain land in the City and County of Denton, Texas, for a public street; providing for approval of the form of the conveyance; and declaring an emergency."

H. B. No. 880, A bill to be entitled "An Act authorizing and directing the Board of Regents of the North Texas State College of Denton, Texas, acting by the President of said college, to execute and deliver to the City of Denton, Texas, an easement across certain land in the City and County of Denton, Texas, for the construction, reconstruction, maintenance and operation of water pipe lines; providing for approval of the form of the conveyance; and declaring an emergency."

H. B. No. 882, A bill to be entitled "An Act to empower the Board for Texas State Hospitals and Special Schools to grant an easement to the City of San Antonio."

H. B. No. 885, A bill to be entitled "An Act authorizing and directing the Board for Texas State Hospitals and Special Schools, acting by the Executive Director thereof, to execute and deliver to the State High-

way Commission of Texas a right-of-way easement to certain land in Cherokee County, Texas, for the reconstruction and maintenance of a State highway extending along and across certain State property known as Rusk State Hospital; and declaring an emergency."

H. B. No. 891, A bill to be entitled "An Act relating to the official shorthand reporter of the Sixteenth Judicial District of Texas; re-enacting and amending Acts of the 51st Legislature, Regular Session, 1949, Chapter 248, by fixing the maximum and minimum salary and by fixing the fee for transcripts; and declaring an emergency."

H. B. No. 896, A bill to be entitled "An Act relating to fur-bearing animals, amending Article 923m, Revised Penal Code of Texas, 1925, defining coypu as a fur-bearing animal, providing for a hunting season for fur-bearing animals, fixing a time limit for the drying and selling of pelts taken from fur-bearing animals, prohibiting the hunting of mink with dogs, providing for a penalty and declaring an emergency."

H. B. No. 897, A bill to be entitled "An Act fixing the membership of the Juvenile Board of Waller County and providing compensation for such members; and declaring an emergency."

H. B. No. 899, A bill to be entitled "An Act creating a conservation and reclamation district under Article XVI, Section 59, of the Constitution comprising the territory contained within the cities of Mexia and Groesbeck, to be known as the 'Bistone Municipal Water Supply District,' for the purposes of providing a source of water supply for municipal, domestic and industrial uses and processing and transporting the same; providing for a Board of Directors to govern said district; providing for the annexation of additional territory thereto; authorizing the district to do all things to make available for the above-named uses water from surface sources and water it may obtain by purchase, lease, and operation contracts with persons, firms, corporations, and public agencies or the United States Government or any of its agencies; empowering the District to acquire land and construct, lease, or otherwise acquire all facilities necessary or use-

ful in diverting, impounding, storing, processing, or transporting water for the above-named purposes; authorizing the district to lease or acquire rights in and to storage and storage capacity in any reservoir; authorizing the issuance of bonds and making provision for the payment and security thereof; making applicable to the district Title 52, Revised Civil Statutes, etc., and declaring an emergency."

H. B. No. 901, A bill to be entitled "An Act amending Section 1 of House Bill No. 457, Chapter 269, Acts of the Regular Session of the 51st Legislature empowering all incorporated cities having a population in excess of Three Hundred and Eighty Thousand (380,000) according to the last preceding or any future United States census to provide for the establishment of up to eight (8) Corporation Courts; providing for the appointment of judges of such courts to serve at the will and pleasure of the mayor; and declaring an emergency."

H. B. No. 594, A bill to be entitled "An Act concerning clerks of the Courts of Civil Appeals, amending Article 1827, Revised Civil Statutes of Texas, 1925, providing that such clerks may reside anywhere within the district of the Court, and the appointment of the clerk during vacation shall be made by the Chief Justice of the Court, and declaring an emergency."

H. B. No. 622, A bill to be entitled "An Act authorizing the annexation to any drainage district heretofore or hereafter organized under Section 52, Article III of the Constitution of Texas which lies wholly within one county and has no outstanding bonds and has not theretofore been converted into a conservation and reclamation district under Section 59, Article XVI of the Constitution, of territory contiguous to the district and lying wholly within the same county but outside of any other drainage district and outside of any incorporated city, town or village; prescribing the method of procedure whereby such territory may be added; providing for notice and for hearing before the Commissioners' Court of the county in which such district and territory are situated on benefits and necessity therefor; specifying the facts which must be found in order for the Commissioners' Court to order

the territory or parts thereof added to the district; providing that the provisions of this act shall be cumulative of all other laws pertaining to drainage; providing that if part of this act be held unconstitutional, such decision shall not affect the validity of the remaining portions of this act; and declaring an emergency."

H. B. No. 706, A bill to be entitled "An Act amending Section 3 of Senate Bill No. 302, Acts of the 53rd Legislature, 1953; the same being Chapter No. 195, page 535, Acts of the Regular Session, known as the Calhoun County Navigation District; providing certain powers, duties and limitations, validating such acts; and declaring an emergency."

H. B. No. 732, A bill to be entitled "An Act limiting the provisions of this Act to Eastland County; making it unlawful, except under the provisions of this Act; for any person to hunt, take, kill or possess any game bird or game animal in said county at any time; to take, kill or trap any furbearing animal in said county; to take or attempt to take any fresh water fish or other aquatic life in said county by any means or method; prescribing the legislative policy with respect to the wildlife resources in said county; conferring upon the Game and Fish Commission authority to regulate by proclamation, order, rule or regulation, the taking of the wildlife resources of said county; requiring the Game and Fish Commission to make investigation with respect to the depletion and waste of the wildlife resources of said county; requiring the Commission to provide an open season or period of time when it shall be lawful to take a portion of the wildlife resources of said county; defining depletion and waste; providing for the adoption of proclamations, orders, rules and regulations of the Game and Fish Commission; providing for the effective period of regulations; providing for the publication of the regulations; providing that the authority of the Commission is not limited; providing venue for suits to test the validity of this Act and of the rules and regulations of the Commission; providing a penalty for false swearing; providing a penalty for the violation of any of the provisions of this Act, as well as any order, rule or regulation of the Commission; providing for the for-

feiture of licenses; making it unlawful to purchase a new license and providing a penalty therefor; defining wildlife resources; repealing certain laws; providing for the effective date of this Act; providing a severability clause; and declaring an emergency."

H. B. No. 772, A bill to be entitled "An Act fixing the open and closed seasons for quail in Dickens County and prescribing a penalty for violation."

H. B. No. 789, A bill to be entitled "An Act changing the name of "Abilene State Hospital"; providing for its operation; ratifying contracts; providing qualifications for the Superintendent; providing that epilepsy shall not be a bar to admission to a State institution or public school; repealing certain laws; and declaring an emergency."

H. B. No. 803, A bill to be entitled "An Act authorizing the Board for Texas State Hospitals and Special Schools to convey certain land in Cherokee County, Texas; describing the manner of sale and disposition of proceeds; and declaring an emergency."

H. B. No. 856, A bill to be entitled "An Act to close the season as to deer in Commissioners Precinct No. 1, in Lee County, Texas, until January 1, 1961; and declaring an emergency."

H. C. R. No. 78, Granting Albert C. Mueller and wife, Velia Mueller, permission to sue the State.

H. C. R. No. 79, Granting permission to M. G. Selman and Jim H. Gordon to sue the State of Texas.

H. C. R. No. 90, Granting G. Carroll Goen permission to sue the State of Texas and North Texas State College.

H. B. No. 202, A bill to be entitled "An Act amending Article 7150, Revised Civil Statutes 1925, by adding a new section thereto to be known and designated as Section 21 so as to exempt from taxation all property belonging to any institution of purely public charity organized for the purpose of promoting the conservation of human life in Texas through the prevention of accidents and by establish-

ing, encouraging and carrying on worthy efforts to accomplish that objective; providing for a severability clause and declaring an emergency."

H. B. No. 225, A bill to be entitled "An Act amending Article 69 of the Revised Civil Statutes of Texas defining 'cotton' or 'cotton products' so as to include all host plants to the pink bollworm; providing a saving clause; and declaring an emergency."

H. B. No. 226, A bill to be entitled "An Act to amend Section 2 of House Bill 402, Acts of the 53rd Legislature, Regular Session, 1953, Chapter 349, page 858, codified in Vernon's as Article 135b-4, Vernon's Civil Statutes, by changing the definition of "herbicide" within the meaning of the provisions of said Act which regulates the sale and use of hormone type herbicides; providing a severability clause; and declaring an emergency."

H. B. No. 268, A bill to be entitled "An Act relating to exemptions of corporations from the franchise tax; amending Article 7094 of the Revised Civil Statutes of Texas, 1925, as amended, so as to exempt from the franchise tax corporations organized for the purpose of educating the public in the conservation of fish, game, and other forms of wildlife and forests; providing for severability; repealing conflicting laws; and declaring an emergency."

H. B. No. 426, A bill to be entitled "An Act relating to the jurisdiction of Probate Courts, and declaring an emergency."

H. B. No. 463, A bill to be entitled "An Act amending Chapter 118, Acts of 1951, 52nd Legislature, known as Article 4528c, Chapter 7, Title 71, Revised Civil Statutes of Texas, 1925, as amended, be amended by adding a new section thereto to be known as Section 3a, providing that registration bureaus operated without profit by recognized state-wide Licensed Vocational Nurses' Organizations for the enrollment of its members only for the purpose of providing nursing service to the public shall not be liable for the payment of an occupation taxes and/or license fees; repealing all laws in conflict herewith; providing for a savings clause; and declaring an emergency."

H. B. No. 903, A bill to be entitled

"An Act authorizing certain cities to issue bonds in lieu of voted but unissued bonds of certain water districts annexed and abolished by such cities; providing for the manner of issuing, selling, approving, and registering such bonds; repealing laws and charter provisions in conflict; validating proceedings for annexation of territory including such water district or districts; containing a saving clause; and declaring an emergency."

H. B. No. 905, A bill to be entitled "An Act to amend Section 1, Chapter 64, Acts of the 52nd Legislature, Regular Session, 1951, (codified as Article 5139F, of Vernon's Texas Civil Statutes), to raise the maximum compensation of members of county juvenile boards in certain counties; and declaring an emergency."

H. B. No. 909, A bill to be entitled "An Act authorizing and directing the Board for Texas Hospitals and Special Schools to execute and deliver to the County of Howard, rights of way easements to one tract of land in Howard County for the construction and maintenance of a Farm to Market Road extending along and across certain State property owned by the State of Texas for the use and benefit of Big Spring State Hospital, and declaring an emergency."

Respectfully submitted,

DOROTHY HALLMAN,

Chief Clerk, House of Representatives.

#### Senate Bill 459 on First Reading

Senator Willis moved that Senate Rule 114 and Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—27

Aikin	Lock
Ashley	Martin
Bracewell	Moffett
Bradshaw	Moore
Fuller	Owen
Hardeman	Parkhouse
Herring	Phillips
Hudson	Ratliff
Kazen	Reagan
Krueger	Roberts
Lane	Rogers

Secrest  
Smith  
Weinert

Willis  
Wood

Absent

Fly  
Gonzalez

Hazlewood

Absent—Excused

Colson

The following bill was then introduced, read first time and referred to the committee indicated:

By Senator Willis:

S. B. No. 459, A bill to be entitled "An Act relating to Tarrant County Water Control and Improvement District No. 1; providing for the annexation of territory to the district and methods of assuming of outstanding tax supported indebtedness by such territory or by the district as thus enlarged; providing for detachment of territory from the district under certain conditions; making additional provision for the issuance of bonds and providing for the payment and security thereof; authorizing the district to make contracts for supplying water and contracts with cities for rental, leasing or operation of water supply and other water works of cities; making bonds of the district eligible for investment by certain funds and eligible to secure deposits of certain public funds; declaring the accomplishment of the purposes of this act is for the benefit of the people of this State and constitutes an essential public function under the Constitution; exempting district properties, its bonds and the transfer of and income from its bonds, including profits on the sale thereof, from taxation; providing for the selection of more than one depository; authorizing the district to purchase properties of other water districts; validating the boundaries of the district; enacting other provisions relating to Tarrant County Water Control and Improvement District No. 1; and declaring an emergency."

To the Committee on Water and Conservation.

#### Senate Bill 460 on First Reading

Senator Moore moved that Senate Rule 114 and Section 5 of Article III of the State Constitution be sus-

pending to permit his introducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—27

Aikin	Moore
Ashley	Owen
Bracewell	Parkhouse
Bradshaw	Phillips
Fuller	Ratliff
Hardeman	Reagan
Herring	Roberts
Hudson	Rogers
Kazen	Secrest
Krueger	Smith
Lane	Weinert
Lock	Willis
Martin	Wood
Moffett	

Absent

Fly  
Gonzalez

Hazlewood

Absent—Excused

Colson

The following bill was then introduced, read first time and referred to the Committee indicated:

By Senators Moore and Secrest:

S. B. No. 460, A bill to be entitled "An Act to create the Pond Creek Watershed Authority as a conservation and reclamation district in Bell, Milam and Falls Counties under the provisions of Article XVI, Section 59 of the Constitution of Texas; prescribing the duties, powers, functions, and procedures for the district, including the right to participate in the organization of subordinate districts to carry out the functions of the master district under certain circumstances and conditions; providing for the incurring of obligations and the methods for the selection of manner for paying such obligations of the master and subordinate districts; providing for a governing body and prescribing their duties; adopting certain provisions of the general law; enacting other provisions required for the functioning of the master and subordinate districts; providing a severance clause; and declaring an emergency."

To the Committee on Water and Conservation.

**Senate Bill 461 on First Reading**

Senator Moore moved that Senate Rule 114 and Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

**Yeas—27**

Aikin	Moore
Ashley	Owen
Bracewell	Parkhouse
Bradshaw	Phillips
Fuller	Ratliff
Hardeman	Reagan
Herring	Roberts
Hudson	Rogers
Kazen	Secrest
Krueger	Smith
Lane	Weinert
Lock	Willis
Martin	Wood
Moffett	

**Absent**

Fly	Hazlewood
Gonzalez	

**Absent—Excused**

Colson

The following bill was then introduced, read first time and referred to the Committee indicated:

By Senator Moore:

S. B. No. 461, A bill to be entitled "An Act providing for no liability on the part of railroad employees for blocking road or street crossings at grade with train; providing for responsibility of such blocking of such crossings on the railroad; and providing for triple damages, reasonable attorney's fees and court costs to certain employees of railroads as penalty of violation by railroads."

To the Committee on Transportation.

**Motion to Place Committee Substitute Senate Bill 312 on Second Reading**

Senator Herring asked unanimous consent to suspend the regular order of business and take up C. S. S. B. No. 312 for consideration at this time.

There was objection.

Senator Herring then moved to suspend the regular order of business and take up C. S. S. B. No. 312 for consideration at this time.

The motion was lost by the following vote:

**Yeas—14**

Ashley	Lock
Bradshaw	Moffett
Gonzalez	Ratliff
Herring	Roberts
Hudson	Rogers
Krueger	Smith
Lane	Weinert

**Nays—16**

Aikin	Moore
Bracewell	Owen
Fly	Parkhouse
Fuller	Phillips
Hardeman	Reagan
Hazlewood	Secrest
Kazen	Willis
Martin	Wood

**Absent—Excused**

Colson

**Senate Bill 339 on Second Reading**

Senator Ratliff asked unanimous consent to suspend the regular order of business and take up S. B. No. 339 for consideration at this time.

There was objection.

Senator Ratliff then moved to suspend the regular order of business and take up S. B. No. 339 for consideration at this time.

The motion prevailed by the following vote:

**Yeas—21**

Aikin	Krueger
Ashley	Lane
Bracewell	Lock
Bradshaw	Moffett
Fly	Owen
Fuller	Parkhouse
Gonzalez	Ratliff
Hardeman	Reagan
Herring	Smith
Hudson	Weinert
Kazen	

**Nays—7**

Hazlewood	Rogers
Moore	Secrest
Phillips	Willis
Roberts	

**Present—Not Voting**

Wood

**Absent**

Martin

**Absent—Excused**

Colson

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 339, A bill to be entitled "An Act to repeal Article 6377, Revised Civil Statutes of Texas, 1925, as amended, and declaring an emergency."

The bill was read second time and was passed to engrossment.

**Motion to Place Senate Bill 339 on Third Reading**

Senator Ratliff moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that S. B. No. 339 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving four-fifths vote of the Members present):

**Yeas—20**

Aikin	Krueger
Ashley	Lane
Bracewell	Lock
Bradshaw	Moffett
Fly	Owen
Fuller	Parkhouse
Hardeman	Ratliff
Herring	Reagan
Hudson	Smith
Kazen	Weinert

**Nays—9**

Gonzalez	Roberts
Hazlewood	Rogers
Martin	Secrest
Moore	Willis
Phillips	

**Absent**

Wood

**Absent—Excused**

Colson

**Reports of Standing Committees**

Senator Weinert by unanimous consent submitted the following reports:

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to whom was referred H. C. R. No. 42, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WEINERT, Chairman.

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to whom was referred H. C. R. No. 60, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WEINERT, Chairman.

Senator Parkhouse by unanimous consent submitted the following report:

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Water and Conservation, to whom was referred H. B. No. 531, have had the same under consideration and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

PARKHOUSE, Chairman.

(Senator Hardeman in the Chair.)

**Bills and Resolutions Signed**

The Presiding Officer announced the signing by the President in the presence of the Senate after the captions had been read, the following enrolled bills and resolutions:

S. B. No. 29, A bill to be entitled "An Act to amend Section 1 of Chapter 354, Act of the 53rd Legislature, Regular Session, 1953 (codified in Vernon's Civil Statutes of Texas as Article 7470), so as to add with certain qualifications the purpose of recharging of underground water reservoirs

to those purposes for which the public waters of the State may be appropriated; providing a savings clause; and declaring an emergency."

S. B. No. 51, A bill to be entitled "An Act providing for the sale of pen-raised game birds; defining pen-raised game birds; providing for a commercial game bird breeder's license and fixing fee for same; providing for deposit of license fees; requiring each pen-raised game bird carcass to be marked for identification; prohibiting the sale of pen-raised game birds that have been killed by shooting; providing for exceptions; fixing a penalty for a violation of this Act; repealing all laws in conflict herewith; and declaring an emergency."

S. B. No. 169, A bill to be entitled "An Act amending Sections 18 and 21 of Chapter 41, Acts of the 40th Legislature, First Called Session, as amended (Rules 51a and 54a, Article 4477, Vernon's Texas Civil Statutes), by increasing the fees for certified copies of vital records furnished by county clerks and the State Registrar of Vital Statistics and for searching the records of the State; etc.; and declaring an emergency."

S. B. No. 201, A bill to be entitled "An Act amending Chapter 96, General Laws of the 43rd Legislature, Regular Session (Article 978k, Vernon's Texas Penal Code), relating to propagation of game animals and game birds by licensed game breeders, by adding a new section permitting game breeders to utilize for personal purposes game birds owned by them; and declaring an emergency."

S. B. No. 203, A bill to be entitled "An Act to amend Article 3.04 of the Insurance Code (Acts of 1951, 52nd Leg. as amended by the Acts of 1955, 54th Leg., p. 916, ch. 363, Sec. 6) pertaining to the application, charter and organization of life, health or accident insurance companies, prescribing conditions for the granting of a charter, providing for a public hearing and the procedure for securing a charter and organization of such companies and the issues to be determined by the Board of Insurance Commissioners, etc., and declaring an emergency."

S. B. No. 210, A bill to be entitled "An Act amending Chapter 314, Gen-

eral Laws of the 41st Legislature, Regular Session, as amended, by amending paragraph (e) of subsection (1) of Section 1a thereof, so as to clarify said paragraph (e), which excepts from the definition of 'Motor Carrier,' and 'Contract Carrier,' etc., and declaring an emergency."

S. B. No. 241, A bill to be entitled "An Act creating a conservation and reclamation district under the provisions of Section 59, Article 16 of the Constitution of Texas, to be known as 'The Lee County West Yegua Water Control and Improvement District No. 2'; prescribing its powers and duties and providing for a governing body thereof; making the District subject to the statutes relating to water control and improvement districts except as otherwise provided; enacting other provisions relating to the subject; and declaring an emergency."

S. B. No. 269, A bill to be entitled "An Act requiring a special audit of county records in any county upon a petition of at least thirty per cent (30%) of the qualified voters of the county; providing for the employment of an auditor for such special audit; providing for qualifications, duties and compensation; requiring such audit to be filed with the district court having jurisdiction in the county and the State Auditor; providing this Act shall be cumulative; and declaring an emergency."

S. B. No. 270, A bill to be entitled "An Act providing that any statement contained in any affidavit or in any other instrument which has been filed or recorded or both in the office of the County Clerk of the county within which the property affected thereby is situated for five years or more or in the office of the County Clerk of any other county in the State of Texas or in the office of any officer or agency of the State of Texas for fifteen years or more, and any finding of fact or adjudication contained in a judgment of any court of record which concerns any family history or shows who were the legal heirs of any deceased person, shall be received in any suit as prima facie evidence of the family history and the legal heirship of any deceased person so stated, etc., and declaring an emergency."

S. B. No. 289, A bill to be entitled



"An Act creating 'Plum Creek Conservation District' under the provisions of Section 59, Article XVI of the Texas Constitution; prescribing the area and powers of the District; etc., and declaring an emergency."

S. B. No. 293, A bill to be entitled "An Act authorizing the Board of Regents of the State Teachers Colleges to execute and deliver to the State Highway Commission a right-of-way easement for the construction and maintenance of a U. S. Highway 75 by-pass loop extending along and across certain State property owned by the State of Texas for the use and benefit of Sam Houston State Teachers College; and declaring an emergency."

S. B. No. 298, A bill to be entitled "An Act conferring concurrent jurisdiction in the County Court of Gonzales County with the Justice Courts of Gonzales County conforming the jurisdiction of said Courts providing for appeals from the County Court; making other provisions relating to the jurisdiction of said Courts; providing a severability clause; and declaring an emergency."

S. B. No. 299, A bill to be entitled "An Act diminishing the jurisdiction of the County Court of Gonzales County; transferring jurisdiction of matters of eminent domain from the County Court of Gonzales County to the Special 25th Judicial District Court of Gonzales County and the 25th Judicial District Court of Gonzales County; conforming the jurisdiction of Gonzales County; making other provisions relating thereto; providing a severability clause and declaring an emergency."

S. B. No. 303, A bill to be entitled "An Act creating a State Youth Authority for the protection, care, training and parole supervision of delinquent children, and, among other things, defining its powers, duties and functions; providing an appropriation; containing a severability as to its validity; repealing certain statutes; fixing its effective date; and declaring an emergency."

S. B. No. 329, A bill to be entitled "An Act amending Section 16, Chapter 342, Acts of the 53rd Legislature, Regular Session, 1953, concerning the fixing of venue for appeals from orders of the State Board of Veterinary

Medical Examiners; and declaring an emergency."

S. B. No. 335, A bill to be entitled "An Act detaching certain territory from Bexar County Water Control and Improvement District No. 13; re-defining the boundaries thereof; validating, ratifying, confirming and approving the organizational proceedings and actions of the Board of Directors thereof, except the bond election and related proceedings; making bonds of the District eligible for investments, and exempting the property and the bonds of the District from taxation; making bonds of the District incontestable; providing a saving clause; and declaring an emergency."

S. B. No. 340, A bill to be entitled "An Act providing for the creation of a Hospital District co-extensive with the incorporated limits of the City of Amarillo; providing for an election in the City of Amarillo to create such District and to assume hospital indebtedness; providing for the levy of taxes by the governing body of said city for hospital purposes; etc.; and declaring an emergency."

S. B. No. 343, A bill to be entitled "An Act to amend Article 2, of Subchapter 9, of Chapter 97, Page 164, of the Acts of the Regular Session of the 48th Legislature, 1943 (Article 342-902, Vernon's Annotated Civil Statutes), prohibiting the business of banking except by corporations; limiting the use of the word 'bank' and related names in advertising; providing for the continuation of the existence of private banks; prescribing penalties for violation by those doing a banking business other than a corporation authorized so to do or for improper advertising; providing a severability clause; repealing all other laws or parts of laws in conflict herewith; and declaring an emergency."

S. B. No. 357, A bill to be entitled "An Act authorizing the Commissioners' Court of Hudspeth, Culberson and El Paso Counties to pay the District Judge of the 34th Judicial District compensation in addition to the compensation paid by the State; making other provisions relating thereto; providing a severability clause and declaring an emergency."

S. B. No. 358, A bill to be entitled "An Act authorizing the Commissioners' Court of El Paso County to pay the District Judge of the 65th Judicial District compensation in addition to the compensation paid by the State; making other provisions; etc.; and declaring an emergency."

S. B. No. 359, A bill to be entitled "An Act authorizing the Commissioners' Court of El Paso County to pay the District Judge of the 41st Judicial District compensation in addition to the compensation paid by the State; making other provisions relating thereto, providing a severability clause; and declaring an emergency."

S. B. No. 377, A bill to be entitled "An Act granting to the Willacy County Navigation District the power and authority to lease land; to sell land to governmental agencies; repealing all laws or parts of laws in conflict and declaring an emergency."

S. B. No. 395, A bill to be entitled "An Act creating a Conservation District under Article XVI, Section 59 of the Constitution comprising certain territory contained in Henderson County, Texas, to be known as 'Athens Municipal Water Authority,' etc.; and declaring an emergency."

S. B. No. 427, A bill to be entitled "An Act making it lawful to take rough fish by spear fishing methods or with bow and arrow in the public fresh waters of the State of Texas; defining rough fish; prohibiting possession of other fish when using such devices; and declaring an emergency."

S. B. No. 430, A bill to be entitled "An Act to amend Chapter 286, Acts of the 54th Legislature, to provide a method of annexing territory and excluding land from the present boundaries of the Boling Municipal Water District; providing the procedure to preserve contract rights; providing a severance clause; and declaring an emergency."

S. B. No. 431, A bill to be entitled "An Act validating Austin County Water Control and Improvement District No. 2 and declaring it to be a validly existing and operating conservation and reclamation District under Section 59, Article 16, Constitution of Texas; etc.; and declaring an emergency."

S. C. R. No. 26, Granting Ernest O. McKinney et ux. permission to sue the State of Texas.

S. C. R. No. 51, Granting C. P. Sutton et al. permission to sue the State of Texas.

S. C. R. No. 54, Granting Southwest Natural Gas Company permission to sue the State of Texas.

### Bill Signed

The Presiding Officer announced the signing by the President in the presence of the Senate after the caption had been read, the following enrolled bill subject to the provisions of Section 49A of Article III of the Constitution of the State of Texas:

S. B. No. 32, A bill to be entitled "An Act regulating the handling and sale of chicken eggs within this State; placing administration of the Act in the Commissioner of Agriculture; providing for the establishment of standards of size and quality of eggs and for the grading and labelling of eggs; providing for the licensing of egg retailers; dealers, wholesalers, processors and brokers and for payment of license fees; etc., and declaring an emergency."

(President in the Chair.)

### Senate Bill 237 with House Amendments

Senator Krueger called S. B. No. 237 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Krueger moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill:

Senators Krueger, Lane, Smith, Ratliff, Aikin.

### Senate Bill 351 with House Amendments

Senator Gonzalez called S. B. No. 351 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Gonzalez moved that the Senate concur in the House amendments.

The motion prevailed.

### Reports of Standing Committee

Senator Fuller by unanimous consent submitted the following reports:

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Transportation, to whom was referred H. B. No. 18, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

FULLER, Chairman.

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Transportation, to whom was referred H. B. No. 187, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do not pass and not be printed.

FULLER, Chairman.

### Senate Concurrent Resolution 69

Senator Bracewell offered the following resolution:

S. C. R. No. 69, Authorizing the State Board of Control to enter into a contract with the San Jacinto Museum of History Assn. for the care, control and custody of the San Jacinto Memorial Monument and Tower, and to thus continue until otherwise provided by the Legislature.

Whereas, The San Jacinto Museum of History Association, under con-

tract with the Board of Control, has had the care, custody and control of the San Jacinto Memorial Monument and Tower on the San Jacinto Battlefield since the Memorial Tower was opened to the public on April 21, 1939; and

Whereas, This arrangement for the operation of this historical monument has been most satisfactory to the State; and

Whereas, It is desirable that this arrangement be continued; now, therefore, be it

Resolved, By the Senate of the State of Texas, the House of Representatives concurring, that the State Board of Control be authorized to enter into a contract with the San Jacinto Museum of History Association whereby the care, custody and control of the San Jacinto Memorial Monument and Tower will continue in the San Jacinto Museum of History Association until otherwise provided by the Legislature; and be it further

Resolved, That such contract and operation shall be under the same terms and conditions as heretofore provided in previous resolutions of the Legislature.

The resolution was read.

On motion of Senator Bracewell and by unanimous consent the resolution was considered immediately and was adopted.

### Senate Joint Resolution 1 on Second Reading

Senator Parkhouse asked unanimous consent to suspend the regular order of business and take up S. J. R. No. 1 on its second reading.

There was objection.

Senator Parkhouse then moved to suspend the regular order of business and take up S. J. R. No. 1 on its second reading.

The motion prevailed by the following vote:

Yeas—22

Aikin	Hardeman
Ashley	Hazlewood
Bracewell	Hudson
Fly	Kazen
Fuller	Martin
Gonzalez	Owen

Parkhouse	Rogers
Phillips	Secrest
Ratliff	Smith
Reagan	Weinert
Roberts	Willis

## Nays—6

Bradshaw	Lock
Krueger	Moffett
Lane	Moore

## Absent

Herring	Wood
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## Absent—Excused

Colson

The President laid before the Senate on its second reading S. J. R. No. 1 with a committee amendment, as amended, pending. (The bill having been read the second time on Tuesday, April 16, 1957.)

Question—Shall the committee amendment to S. J. R. No. 1 as amended be adopted?

(Pending discussion of the amendment by Senator Lock, Senator Hardeman occupied the Chair temporarily.)

(President in the Chair.)

Question—Shall the committee amendment to S. J. R. No. 1 as amended be adopted?

**House Bill 531 Ordered Not Printed**

On motion of Senator Herring and by unanimous consent H. B. No. 531 was ordered not printed.

**Conference Committee on House Bill 134**

The President announced the appointment of the following as a Conference Committee on the part of the Senate on H. B. No. 134:

Senators Willis, Lane, Hardeman, Martin and Herring.

**Recess**

On motion of Senator Weinert the Senate at 11:58 o'clock a.m. took recess until 2:30 o'clock p.m. today.

**After Recess**

The President called the Senate to order at 2:30 o'clock p.m. today.

**Message from the House**

Hall of the House of Representatives  
Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 442, A bill to be entitled "An Act amending Section 43 of the Texas Election Code (Article 5.11 Vernon's Texas Election Code), so as to remove the requirement that information supplied to the tax collector by a taxpayer applying for his poll tax receipts by mail must be made under oath; repealing conflicting laws; and declaring an emergency."

H. B. No. 887, A bill to be entitled "An Act creating additional district courts in Dallas County, Texas, to be known as the 141st Judicial District; and the 154th Judicial District; providing the terms and jurisdiction of said courts; providing for the appointment of district judges for said courts; prescribing the powers, duties, term of office and compensation of the judges of said courts; providing for the appointment for the official court reporters of said courts; prescribing the qualifications, duties and compensation of the judges of said courts; providing for the appointment, designation and compensation of other officers of said courts; providing all process, writs, recognizances and bonds heretofore issued, made, executed or returnable to existing terms of district courts in Dallas County, Texas, are valid and returnable to the first term of the district courts, provided herein, as assigned to the respective courts after this Act takes effect; making other provisions relative to the business and functioning of the district courts of Dallas County, Texas; providing a severability clause; and declaring an emergency."

The House has adopted the Conference Committee Report on House Bill No. 151 by a vote of 133 ayes, 0 noes.

The House has adopted the Conference Committee Report on H. J. R. No. 3 by a vote of 123 ayes, 9 noes.

H. C. R. No. 57, Granting permis-

sion to Lester De Cordova to sue the State of Texas.

H. C. R. No. 58, Granting H. B. Neild permission to sue the State of Texas.

S. C. R. No. 50, Granting Ben E. Wade permission to sue the State Highway Department of the State of Texas, providing for no admission of liability.

Respectfully submitted,

**DOROTHY HALLMAN,**  
Chief Clerk, House of Representatives

#### Report of Standing Committee

Senator Parkhouse by unanimous consent submitted the following report:

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Water and Conservation, to whom was referred H. B. No. 904, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

**PARKHOUSE,** Chairman.

#### Resolution Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled resolution:

H. C. R. No. 87, Directing the Senate Enrolling Clerk to correct Senate Bill No. 32 by substituting the word "appropriation" for the word "re-appropriation" where it occurs in the House Amendment to this bill.

#### House Bills on First Reading

The following bills received from the House were read first time and referred to the committees indicated:

H. B. No. 442, To the Committee on Privileges and Elections.

H. B. No. 887, To the Committee on Legislative, Congressional and Judicial Districts.

#### Senate Concurrent Resolution 70

Senator Fuller offered the following resolution:

S. C. R. No. 70, Enrolling Clerk to correct S. C. R. No. 48.

Whereas, Senate Concurrent Resolution No. 48 has passed both Houses and is now in the Senate Enrolling Room; and

Whereas, It has been discovered that in this Resolution the word "Commissioner" appears where same should have been "Chairman"; therefore, be it

Resolved, By the Senate, The House of Representatives concurring, that the Senate Enrolling Clerk be and is hereby directed to correct said Resolution by substituting the word "Chairman" for the word "Commissioner" where it occurs in said Resolution.

The resolution was read.

On motion of Senator Fuller and by unanimous consent the resolution was considered immediately and was adopted.

#### Senate Resolution 401

Senator Phillips by unanimous consent offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate 42 members of the Social Studies class of Stephen F. Austin Junior High School of Galveston, Texas, accompanied by their teacher, Mrs. J. A. Schellhorn; and

Whereas, These students are on an educational tour of the Capitol Building and the Capital City; and

Whereas, This fine group of young American citizens is here to observe and to learn at firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Phillips by unanimous consent presented the class and Mrs. Schellhorn to the Members of the Senate.

#### Senate Resolution 402

Senator Aikin by unanimous consent offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate Mr. and Mrs. W. M. Heath of Paris, Texas; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted.

Senator Aikin by unanimous consent presented Mr. and Mrs. Heath to the Members of the Senate.

#### Senate Resolution 403

Senator Parkhouse by unanimous consent offered the following resolution:

Whereas, We are honored today to have in the gallery the Eighth Grade girls from St. James School in Dallas, accompanied by Sister Imelda; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; and

Whereas, These fine young American citizens are here to observe and learn firsthand the workings of their State government; now, therefore, be it

Resolved, That we officially recognize and welcome this class and commend them for their interest, and that a copy of this resolution, properly endorsed, bearing the official seal of the Senate, be mailed to them in recognition of their visit.

The resolution was read and was adopted.

Senator Parkhouse by unanimous consent presented the students and Sister Imelda to the Members of the Senate.

#### Senate Resolution 404

Senator Gonzalez by unanimous consent offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate Francis Sullivan, Harris Kimball and Bernard Lammaurcy; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted.

Senator Gonzalez by unanimous consent presented the distinguished guests to the Members of the Senate.

#### Senate Resolution 405

Senator Hazlewood by unanimous consent offered the following resolution:

Whereas, The 54th Regular Session of the Legislature of the State of Texas adopted Senate Concurrent Resolution No. 71, recognizing the outstanding services of Lieutenant General Ernest Othmer Thompson to the State of Texas, and to the Nation, and did by such resolution authorize the acceptance by the State of Texas of a portrait of the said General Ernest Othmer Thompson; and

Whereas, It is fitting and proper that such portrait be now placed in an appropriate location in keeping with the provisions of said Senate resolution, and presented to the State of Texas; and

Whereas, The State Board of Control has suggested a location in the Senate Chamber as a proper and suitable place for the hanging of such portrait, subject to the acceptance and consent on the part of the Senate of the State of Texas; now, therefore, be it

Resolved by the Senate of Texas, That the Senate accept the said portrait of Lieutenant General Ernest Othmer Thompson and hang such portrait at the designation suggested by the State Board of Control for the hanging of such picture.

The resolution was read and was adopted.

#### Message from the House

Hall of the House of Representatives,  
Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. C. R. No. 70, Correcting an error in Senate Concurrent Resolution No. 48.

H. C. R. No. 52, Requesting the Texas Legislative Council to make a study concerning all physically handicapped persons in Texas, both children and adults, as to the number of such persons, treatment facilities available, and possibilities for their vocational training or rehabilitation.

Respectfully submitted,

DOROTHY HALLMAN,

Chief Clerk, House of Representatives.

#### Senate Bill 97 on Second Reading

On motion of Senator Lane and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 97, A bill to be entitled "An Act amending Article 21.28 of the Insurance Code of Texas, relating to liquidation, rehabilitation, reorganization and conservation of insurers; creating the Board of Insurance Liquidation of the State of Texas and conferring upon the Board the power to appoint the insurance liquidator and to supervise certain activities and policies of the liquidator and his office; making other changes relative to the organization and administration of the liquidator's office; and declaring an emergency."

The bill was read second time.

Senator Lane offered the following committee amendment to the bill:

Amend Senate Bill No. 97 by striking out all below the enacting clause and inserting in lieu thereof the following:

"Section 1. That Article 21.28, of the Insurance Code, 1951 as amended, be amended to be and read as follows:

"Article 21.28. Liquidation and Rehabilitation of Insurers.

Section 1. Definitions. For the purposes of this Article:

"(a) 'Insurer' means and includes capital stock companies, reciprocal or interinsurance exchanges, Lloyd's as-

sociations, fraternal benefit societies, mutual and mutual assessment companies of all kinds and types, statewide assessmer<sup>t</sup>, associations, local mutual aids, burial associations, county and farm mutual associations, fidelity, guaranty and surety companies, trust companies organized under the provisions of Chapter 7 of the Texas Insurance Code of 1951, and all other organizations, corporations, or persons transacting an insurance business, or are in the process of organization for the purpose of or intending to do such business, unless by statute specifically be naming this Article, exempted from the operation of this Article.

"(b) 'Delinquency proceeding' means any proceeding commenced by the Board of Insurance Commissioners of the State of Texas for the purpose of liquidating, rehabilitating, or conserving the assets of an insurer and any proceeding commenced by the State for the forfeiture of the charter of an insurer.

"(c) 'Assets' means all property, real or personal, whether specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons, or a limited class or classes of persons. The word 'assets,' as used in this Article, includes all deposits and funds of a special or trust nature.

"(d) 'Liquidator' means the person designated by the Board of Insurance Commissioners as liquidator, rehabilitator, or conservator of all insurers.

"(e) 'Board' means the Board of Insurance Commissioners of the State of Texas.

"(f) 'Court,' unless the same clearly appears to the contrary from the text of this article, means the court in which the delinquency proceeding is pending.

"(g) 'Liquidation Division' shall refer to Liquidator and his permanent staff.

#### "Sec. 2. General Procedures.

"(a) Liquidator taking Possession. Whenever the Board finds that grounds for rehabilitation, conservation or liquidation of an insurer exists and that it is to the best interests of the creditors and policyholders of such insurer that the insurer be rehabilitated, conserved, or liquidated, the Board shall direct the Liquidator to take possession of the affairs of

such insurer. A copy of the order of the Board directing the Liquidator to take possession of an insurer shall be filed in the District Court of Travis County, Texas, as an original proceeding, and such court shall be considered the court in which delinquency proceedings are pending.

Before the Board issues its order directing the Liquidator to take possession of an insurer, he shall notify such insurer of the facts which make necessary the appointment of the Liquidator. If the insurer fails or refuses to file with the Board, within ten (10) days from the date of the Board's official notice, satisfactory evidence that the matters complained of have been cured to the satisfaction of the Board, the Board shall direct the Liquidator to take possession of the affairs of such insurer. Immediately upon notification by the Board of the facts which make necessary the appointment of the Liquidator, the Board may direct the Liquidator or some other employee of the Board to preserve the affairs of such insurer pending the order directing the Liquidator to take possession, and thereafter, until the Board shall direct the Liquidator to take possession of the affairs of such insurer for the purpose of rehabilitation, conservation or liquidation, or the insurer has produced satisfactory proof of its compliance with the matters objected by the Board, none of the assets, funds or properties of such insurer shall be expended without the prior approval of the Liquidator or such other designated employee of the Board. The insurer may if it so desires, file with the Board a statement that it does not intend to comply with the notice of the Board to show cause and upon the receipt of such notice the Board may then direct the Liquidator to take possession for the purpose of rehabilitation, conservation or liquidation as the facts may require, and thereupon the order of the Board directing the Liquidator to take possession of such insurer for the purpose of rehabilitation, conservation or liquidation shall be appealable as provided in Subsection (h) of Sec. 2 of this Article and not otherwise. The order directing the Liquidator or some other employee of the Board to take possession of the affairs of an insurer for the purpose of preserving the assets pending the order of the Board directing the Liquidator to

take possession for the purpose of rehabilitation, conservation or liquidation shall not be appealable.

"(b) Exclusive Method of Liquidation, Rehabilitation, and Conservation. The methods of liquidation, rehabilitation, and conservation, as provided for in this Article shall be exclusive and no insurer shall make an assignment for the benefit of creditors, nor shall any court appoint a Receiver for any insurer. Whenever a court of this State finds that the affairs of an insurer are in such condition that would justify the appointment of a Receiver except for the foregoing prohibition, the Court shall direct the Liquidator to take possession of the affairs of such insurer and the Liquidator shall commence conducting the affairs of such insurer pursuant to the provisions of this Article.

"(c) Voluntary Liquidation. A solvent insurer may be closed and liquidated upon the written consent or vote of the owners of two-thirds ( $\frac{2}{3}$ ) of its capital, which consent, or the resolution adopted by the stockholders shall specify the date when such insurer is to be closed, and shall designate one or more individuals to act as the liquidating agent, who shall conduct the liquidation under the supervision of the Board of Directors, after giving suitable bond as prescribed by said Board of Directors and approved by the Board of Insurance Commissioners. Prior to the closing of such insurer, the Directors shall file with the Board of Insurance Commissioners a transcript of the proceedings authorizing the closing of the insurer. Notice to its policyholders and creditors to present their claims shall be published once a week for thirteen (13) weeks, beginning within ten (10) days after the closing of the insurer, in two (2) newspapers printed within this State which have a general circulation in this State. Upon presentment of lawful claims, the insurer shall pay its policyholders and creditors. The liquidating agent shall make a written report to the stockholders at each annual meeting, a copy of which, signed and sworn to by the liquidating agent, shall be filed with the Board of Insurance Commissioners. The stockholders at any regular or special meeting may remove the liquidating agent and name a successor. The Board of Insurance Commission-



ers may from time to time examine the liquidating insurer and may, if the policyholders and creditors are not paid upon presentment of their lawful claims, or if, prior to the payment of all policyholders and creditors, the Board finds any condition which would authorize the liquidation, rehabilitation, or conservation of the insurer were it not in voluntary liquidation, direct the Liquidator to take possession of the assets and liquidate the same in the manner herein provided for the involuntary rehabilitation, conservation, or liquidation of insurers. Upon the expiration of six (6) months from the first publication of notice as above provided, the insurer shall file with the Board of Insurance Commissioners an affidavit sworn to by a majority of the qualified directors stating that all policyholders and creditors who have presented their claims have been paid the amounts due them, and listing those policyholders and creditors who have not presented their claims, giving their addresses as shown by the books of the insurer and the amounts respectively due each. Such affidavit shall be accompanied by a publisher's certificate showing publication of notice as above provided, and by a sum equal to the aggregate amount due the non-claiming policyholders and creditors. The Board of Insurance Commissioners shall hold such money for the benefit of said policyholders and creditors in the manner provided in Subsections (e) and (f) of Section 8 of this Article. At any time after the filing of such affidavit, the Board of Directors may distribute the remaining assets among the shareholders in proportion to their ownership of stock of the insurer and shall thereafter file with the Board of Insurance Commissioners an affidavit sworn to by a majority of the qualified Directors showing such distribution. The filing of such affidavit and the approval thereof by the Board of Insurance Commissioners shall have the effect of cancelling the charter of the insurer without the necessity of any judicial action. No insurer which has been closed pursuant to the provisions of this subsection shall resume business or reopen without the proper written consent of the Board of Insurance Commissioners.

"(d) Grounds for Rehabilitation. The Board may direct the rehabilita-

tion of an insurer upon any one or more of the following grounds: that such insurer (1) is insolvent; or (2) has refused to submit its books, papers, accounts or affairs to the reasonable inspection of the Board or its examiners; or (3) has failed or refused to make good an impairment of capital or surplus as required by law; or (4) has, by contract of reinsurance or otherwise, transferred or attempted to transfer substantially its entire property or business or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other corporation, association, society, order, firm or individual, without having first obtained the written approval of the Board; or (5) is found to be in such condition by the Board that its further transaction of business will be hazardous to its policyholders or its creditors; or (6) has willfully violated its charter or any of the provisions of the laws of this State; or (7) retains after notice from the Board an officer, agent or employee who has refused to be examined under oath, concerning its affairs; or (8) has ceased to do the business of insurance for a period of one (1) year; or (9) has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian or sequestrator under any law except this Article; or (10) has been the subject of an application for the appointment of a receiver, trustee, custodian, or sequestrator of the insurer or its property, or if a receiver, trustee, custodian, or sequestrator is appointed by a federal court, or if such appointment is imminent; or (11) has consented to an order for the appointment of a receiver, trustee, custodian, or sequestrator through a majority of its directors, stockholders, or members, or (12) has not organized or completed its organization and obtained a license or certificate authorizing it to commence the doing of an insurance business within one (1) year from the date of its incorporation; or (13) is found to be in such condition by the Board as requires the appointment of a conservator under the provisions of this Code; or (14) has failed or refused to take

such steps under the provisions of Article 1.14 of this Code as may be necessary to remove from office any officer or director whom the Board has found not worthy of public confidence; or (15) has had its charter canceled.

"(e) Order of Rehabilitation. (1) An order to rehabilitate shall direct the Liquidator forthwith to take possession of the property of such insurer and to conduct the business thereof, and to take such steps toward the removal of the causes and conditions which have made such proceeding necessary. (2) If at any time the Liquidator shall deem that further efforts to rehabilitate such insurer would be futile, he shall make such fact known to the Board, and the Board may then direct that such insurer be liquidated if grounds for liquidation exist. The order of the Board directing liquidation shall be filed with the court and the order of the Board may be appealed in the same manner as though the Board had directed the liquidation of such insurer initially under this Article. (3) The Liquidator or the insurer, acting through its Board of Directors, at any time may apply to the Board for an order terminating any rehabilitation proceeding, and permitting such insurer to resume possession of its property and the conduct of its business. The insurer may appeal the order of the Board denying such termination to the court. No order terminating the rehabilitation shall be granted until it shall have been determined that the purposes of the proceeding have been fully accomplished.

"(f) 'Grounds for Liquidation.' The Board may direct the liquidation of an insurer upon any one or more of the grounds specified in subdivisions (1), (3), (5), (8), (9), (10), (12), (15) of Subsection (d) of Section 2. of this Article.

"(g) 'Order of Liquidation; Rights and Liabilities.' (1) An order to liquidate the business of an insurer shall direct the liquidator and his successors in office forthwith to take possession of the property of such insurer and to liquidate the business of the same and to deal with the property and business of such insurer in his own name. (2) The liquidator and his successors in office shall be vested by operation of law with the title to all property, contracts and rights of action of such insurer as of

the date of the entry of an order directing the liquidation of such insurer. The rights and liabilities of any such insurer and of its creditors, policyholders, stockholders, members and all other persons interested in its estate shall be fixed as of the date of the entry of the order directing the liquidation of such insurer. On application by the liquidator or an interested party within thirty (30) days of the date of entry of an order directing the liquidation of an insurer, the court may upon notice and hearing direct such rights and liabilities be fixed at such a date as will provide a more equitable distribution of the assets.

"(h) 'Contest of Liquidation or Rehabilitation.' At any time within five (5) days after the Board shall have filed the order directing the rehabilitation, liquidation or conservation of an insurer, such insurer, acting through its directors, may appeal the action of the Board in the District Court of Travis County. Said Court, or the judge thereof if in vacation, may, without notice or hearing, restrain the Liquidator from liquidating the assets of such insurer pending hearing on the merits, and shall, in that event, instruct the Liquidator to hold the assets of such insurer in his possession pending final disposition of such suit. The Liquidator shall thereupon refrain from liquidating such assets, provided, however, the Liquidator may, with the approval of the judge, take such action as may be necessary or proper to prevent loss or depreciation in the value of the assets. The Court shall, as soon as possible, hear the suit upon its merits and shall enter a judgment enjoining the Liquidator from liquidating or rehabilitating or conserving the assets of such insurer, or refusing such injunction. Appeal shall lie from such judgment as in other civil cases, but the Liquidator, irrespective of the character of judgment entered by the trial court or any supersedeas bond filed, shall retain possession of the assets of such insurer pending final disposition on appeal.

"(i) 'Disposal of Property.' The Liquidator may, upon such terms and conditions as he may deem for the best interests of the creditors of an insurer under his supervision, (1) sell or otherwise dispose of the property, or any part thereof, of an insurer under his supervision, and (2) sell or

compound all doubtful or uncollectible debts, or claims owed by or owing to such insurer, including claims based upon an assessment levied against a member of a mutual insurer, reciprocal exchange, an underwriter at Lloyds, or stockholder. The Liquidator shall file with the Clerk of the Court a report of such sales, disposals, or compromises. Such sales, disposals, or compromises shall become final at a date not less than five (5) days from the date of filing, specified in such report unless a petition objecting to such sale, disposal, or compromise, be filed in the Court by a party interested. Such action shall have precedence over all other causes on the docket of a different nature. The burden shall be upon the party objecting to show that the Liquidator has abused his discretion in such sale, disposal, or compromise. Any party to said action may appeal as in other civil cases. The Liquidator may, subject to the approval of the Court, sell or agree to sell, or offer to sell, any assets of such an insurer to such of its creditors who may desire to participate in the purchase thereof, to be paid for, in all or in part, out of dividends payable to such creditors and, upon application of the Liquidator, the Court may designate representatives to act for such creditors in the purchase, holding and/or management of such assets, and the receiver may, subject to the approval of the Court, advance the expense of such representatives against the security of the claim of such creditors. Notice of any sale, disposal, or compromise, or any other proposed action under this subsection shall be given by posting copies of such report or application for a period of not less than three (3) days at some prominent place at the principal office of the Liquidator and at the Courthouse of Travis County, Texas.

"(j) Bonds. The liquidator shall be responsible, on his official bond hereinafter provided for, for all assets coming into his possession. An interested party may apply to the Court for an order requiring an additional bond or bonds from said Liquidator, any special deputy Liquidator, or other assistant or employee respecting the liquidation of a particular insurer.

"(k) Inventory. An inventory in duplicate of the insurer's assets shall be prepared forthwith by the Liquidator, one of which shall be filed in

the office of the Board, and one in the office of the Clerk of the Court, which inventories shall be open to inspection.

"(l) Depositories. All money collected by the Liquidator shall be forthwith deposited in any bank or banks in this State which are members of the Federal Deposit Insurance Corporation or any building and loan association doing business in this State, and which are members of the Federal Savings and Loan Insurance Corporation. The funds collected or realized from the assets of each insurer shall be kept separate and apart from all other funds. Whenever any account in any such bank exceeds the amount insured by said Federal Deposit Insurance Corporation, or if in a building and loan association, exceeds the maximum amount insured by the Federal Savings and Loan Insurance Corporation, the Liquidator is hereby authorized and directed to make such contracts and require such security as he may deem proper for the safeguarding of such deposit upon the approval of the Board.

"Sec. 3. Claims.

"(a) Time for Filing. Where liquidation of an insurer has been directed all persons who may have claims against such insurer shall present proof of the same to the Liquidator at a place specified by the Liquidator within one hundred eighty (180) days after the entry of an order of liquidation. The Liquidator shall notify all persons who may have claims against such insurer as disclosed by its books and records to present proof of the same to him within said one hundred eighty (180) days. Such notice may be given by ordinary mail.

"(b) Late Filing. Claims filed subsequent to the expiration of said one hundred eighty (180) days but prior to the expiration of one (1) year after the entry of an order of liquidation may participate only in future dividends. Claims which are not filed within the expiration of such one-year period shall not participate in any distribution of the assets by the Liquidator.

"(c) Proof Necessary. A proof of claims shall consist of a written statement under oath signed by the claimant, setting forth the claim, the consideration therefor, and whether any, and if so, what securities are held therefor, and any right of priority of payment or other specific rights

asserted by the claimant, and whether any, and if so, what payments have been made thereon, and such other matters as may be required by the Liquidator, and that the sum claimed is justly owing from the insurer to the claimant. Whenever a claim is founded upon an instrument in writing, such instrument, unless lost or destroyed, shall be filed with the proof of claim. After filing of such instrument, the Liquidator may, in his discretion, permit the claimant to substitute a true copy of such instrument, until the final disposition of the claim. If such instrument is lost or destroyed, a statement of such fact and of the circumstances of such loss or destruction shall be filed under oath with the claim.

"(d) Contingent Claims. No contingent claim shall share in a distribution of the assets of an insurer in liquidation except that such claim shall be considered if properly presented, and may be allowed to share where (1) such claim becomes absolute against the insurer on or before the last day fixed for filing of proof of claims against the assets of such insurer, or (2) there is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent. For the purposes of this Article, 'contingent claim' means a claim for which the right of action is dependent upon the occurrence or nonoccurrence of some future event which may or may not happen.

"(e) Third Party Claims. Where a liquidation order has been entered in a proceeding against an insurer any person who has a cause of action against an insured of such insurer under a liability insurance policy issued by such insurer, shall have the right to file a claim with the Liquidator, regardless of the fact that such claim may be contingent, and such claim may be approved (1) if it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured; and (2) if such persons shall furnish suitable proof that no further valid claims against such insurer arising out of his cause of action other than those already presented can be made; and (3) if the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater

than its total liability would be were it not in liquidation. No judgment against an insured taken after the date of the entry of the order of liquidation shall be considered in the liquidation proceeding as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default or by collusion prior to the commencement of the liquidation proceedings shall be considered as conclusive evidence in the proceeding, either of the liability of such insured to such person upon such cause of action, or of the amount of damages to which such person is therein entitled.

"(f) Offsets. In all cases of mutual debts or mutual credits between the insurer and another person in connection with any claim or proceeding under this Article, such credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in subsection (g) of this section.

"(g) No Offsets. No offsets shall be allowed in favor of any person, however, where (1) the obligation of the insurer to such person would not at the date of the entry of the order of liquidation or as otherwise provided in Section 2(g) entitle him to share as a claimant in the assets of such insurer, or (2) the obligation of the insurer to such person was purchased by or transferred to such person subsequent to the entry of the liquidation order or with a view of its being used as an offset, or (3) the obligation of such person is to pay an assessment levied against the members of a mutual insurer, or reciprocal exchange, or underwriters at Lloyds, or to pay a balance upon a subscription to the capital stock of a stock insurance corporation, or (4) the obligation of such person is as a trustee or fiduciary.

"(h) Action on Claims. The Liquidator shall have the discretion to approve or reject any claim filed against the insurer. Objections to any claim not rejected may be made by any party interested, by filing the objections in the Court within ten (10) days after the approval of such claim by the Liquidator. The Court shall determine the propriety of the Liquidator's action after notice and hearing and shall enter such order as is appropriate in the premises. Upon the rejection of each claim, either in whole or in part, the Liquidator shall notify

the claimant of such rejection by written notice. Action upon a claim so rejected must be brought in the court in which the delinquency proceeding is pending within ninety (90) days after the service of notice; otherwise, the action of the Liquidator shall be final and not subject to review. Such action shall be de novo as if originally filed in said court and subject to the rules of procedure and appeal applicable to civil cases.

**"Sec. 4. Actions.**

**"(a) Injunctions.** Upon an application by the Liquidator or the Attorney General, the court in which the delinquency proceeding is pending may, with or without notice, issue an injunction restraining the insurer named in the order, its officers, directors, stockholders, members, trustees, agents, servants, employees, policyholders, attorneys, managers, attorney-in-fact, associate, deputy, substitute attorneys-in-fact, and all other persons from the transaction of its business or the waste or disposition of its property, or requiring the delivery of its property and/or assets to the Liquidator subject to the further order of the Court.

**"(b) Other Orders.** Such Court may at any time during a proceeding under this Article issue such other injunctions or orders as may be deemed necessary to prevent interference with the Liquidator or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of any actions, or the obtaining of preferences, judgments, attachments, garnishments, or other liens, or the making of any levy against the insurer or against its assets or any part thereof.

**"(c) No Preferences.** Any claim, judgment, lien or preference against the insurer or its Liquidator obtained, after the date of commencement of delinquency proceedings, in derogation of the terms of any such injunction or order of the Court may be denied by the Liquidator until proof of the justness of such claim, judgment, lien, preference or demand is made before and approved by the court.

**"(d) Pending Lawsuits.** No judgment or order rendered by any court of this State in any action pending by or against the delinquent insurer after the commencement of delinquency proceedings shall be binding upon the Liquidator or the insurer unless the Liquidator shall have been made a party to such suit.

**"(e) One Year Extension.** The Liquidator shall not be required to plead to any suit in which he may be a proper party plaintiff or defendant, in any of the courts in this State until one (1) year after the date of the order directing liquidation of an insurer.

**"(f) New Lawsuits.** The court of competent jurisdiction of the county in which the delinquency proceedings are pending under this Article shall have venue to hear and determine all actions or proceedings instituted after the commencement of delinquency proceedings by or against the insurer or Liquidator.

**"(g) The provisions of Articles 2310 and 2311 of the Revised Civil Statutes of Texas of 1925, as amended, shall not apply to insurers being administered under this Article.**

**"Sec. 5. Voidable Transfers.**

**"(a) Transfers or liens voidable.** Any transfer of or lien upon the property or assets of an insurer which is made or created within four (4) months prior to the order directing the Liquidator to take possession of an insurer, with the intent of giving to any creditor or enabling him to obtain a greater percentage of his debt than of any other creditor of the same class, and which is accepted by such creditor, having reasonable cause to believe that such preference will occur, shall be voidable.

**"(b) Personal Liability.** Every director, officer, agent, employee, stockholder, member, attorney-in-fact, associate, substitute or deputy attorney-in-fact, underwriter, subscriber, and any other person acting on behalf of such insurer, who shall be concerned in any such prohibited act or deed, and every person receiving thereby property of such insurer, or the benefit thereof, shall be personally liable therefor, and shall be bound to account to the Liquidator for the benefit of the creditors of the insurer.

**"(c) Avoiding and Recovery.** The Liquidator in any proceeding under this Article, may avoid any transfer of, or lien upon the property or assets of an insurer which any creditor, stockholder or member of such insurer might have avoided, and may recover the property so transferred or its value from the person to whom it was transferred, unless he was a bona fide holder for value prior to the date of the commencement of proceedings under this Article. Such

property or its value may be recovered from anyone who has received it, except a bona fide holder for value as above specified.

**"Sec. 6. Priority of Claims for Wages.**

"All wages actually owed to employees of an insurer against whom an order of liquidation has been entered, for services rendered within three (3) months prior to the filing of such order of liquidation, not exceeding Three Hundred Dollars (\$300) to each employee shall be paid prior to the payment of every other debt or claim, and in the discretion of the Liquidator may be paid as soon as practicable after the proceeding has been commenced, except that at all times there shall be reserved such funds as will be sufficient for the expenses of administration of the estate and the Liquidation Fees herein provided.

**"Sec. 7. Assessments.**

"(a) Application. Within four (4) years from the date of an order of rehabilitation, conservation or liquidation, of a domestic insurer, the Liquidator may make an application to the Court to levy an assessment against the members of a mutual insurer, or the underwriters or members of a reciprocal exchange, or the underwriters at Lloyds or the holders of stock on which there is an unpaid subscription contract. Such application shall set forth the reasonable value of the assets of such insurer, its probable liabilities, and the probable necessary assessment, if any, to pay all possible claims and expenses in full, including expenses of administration and collection.

"(b) Levy. Upon such notice as may be designated by the court, the court shall proceed to consider such report and may levy one or more assessments. Such assessment or assessments shall cover the excess of the probable liabilities over the reasonable value of the assets, together with the estimated cost of collection and percentage of uncollectibility thereof. No such assessment shall be levied against any member or subscriber with respect to any policy which contains a nonassessable or noncontingent liability provision or provisions and which has been issued under authority granted by the Board.

"(c) Collection. After the entry of such an order of assessment and the

expiration of the time for appeal, the Liquidator shall proceed to collect such assessments, and for the purpose of such collection may bring suit for the same in any court of competent jurisdiction in the county in which such delinquency proceeding is pending.

"(d) Provisions Cumulative. The provisions of this Section are cumulative of any other remedies for the levy and collection of assessments.

**"Sec. 8. Distributor of Assets.**

"(a) Payments to Creditors. At such time or times as may be appropriate, the Liquidator shall file with the Clerk of the Court lists of approved claims showing the names of the claimants and the amount of such claims. The Liquidator shall, at such times as the affairs of an insurer permit, declare dividends. He shall file with the Clerk of the Court schedules showing the names of the distributees and the amount of the distributions. Ten (10) days after filing such report the Liquidator may pay such proposed dividends in the absence of any objection filed by an interested party with the court.

"(b) Interest. Interest shall not accrue on any claim subsequent to the date of the entry of the order of liquidation.

"(c) Foreign Claimants. If any claimant of another state or foreign country shall be entitled to or shall receive a dividend upon his claim out of a statutory deposit or the proceeds of any bond or other asset located in such other state or foreign country, then such claimants shall not be entitled to any further dividend from the Liquidator until and unless all other claimants of the same class, irrespective of residence or place of the acts or contracts upon which their claims are based, shall have received an equal dividend upon their claims; and after such equalization, such claimants shall be entitled to share in the distribution of further dividends by the Liquidator, along with and like all other creditors of the same class, wheresoever residing.

"(d) Setoff by Liquidator. Upon the declaration of a dividend, the Liquidator shall apply the amount of such dividend against any indebtedness owed to the insurer by the person entitled to such dividend.

"(e) Unclaimed Dividends. Un-

claimed dividends on approved claims remaining in the Liquidator's hands after payment of the final dividend shall be delivered to the Board. Such funds shall be deposited by the Board in trust in a special account to be maintained with the State Treasurer.

"(f) Escheat. On receipt of satisfactory written and verified proof of ownership within two (2) years from the date such funds are so deposited with the State Treasurer, the Board shall certify such facts to the Comptroller of Public Accounts, who shall issue proper warrant therefor in favor of the parties respectively entitled thereto drawn on the State Treasurer. Any such money remaining unclaimed with the Board for two (2) years shall then be treated as Fees of Liquidation herein provided.

"Sec. 9. Closing.

"(a) Excess Assets—Stock Companies. When the Liquidator shall have made provision for unclaimed dividends and all of the liabilities of a stock insurance company, he shall call a meeting of the stockholders of the insurer by giving notice thereof by publishing for three successive weeks in two newspapers printed in this State which have a general circulation in this State, and by written notice to the stockholders of record at their last known addresses. At such meeting the stockholders shall appoint an agent or agents to take over the affairs to continue the liquidation for benefit of the stockholders. Voting privileges shall be governed by the insurer's bylaws. A majority of the stock shall be represented at the agent's appointment. Such agent or agents shall execute and file with the court such bond or bonds as shall be approved by it, conditioned on the faithful performance of all the duties of the trust. Under order of the Court the Liquidator shall then transfer and deliver to such agent or agents for continued liquidation under the court's supervision all assets of the insurer remaining in his hands, whereupon the Liquidator and the Board, and each member and employee thereof, shall be discharged from any further liability to such insurer and its creditors and stockholders; provided, however, that nothing herein contained shall be so construed as to permit the insurer to continue in business.

"(b) Excess Assets—Other Companies. After the Liquidator shall have made provision for unclaimed dividends and all of the liabilities of any insurer other than a stock insurance company, he shall dispose of any remaining assets as directed by the court.

"(c) No Limitation. Each delinquency proceeding prescribed by this Article shall be administered continuously hereunder for whatever length of time is necessary to effectuate its purposes. No arbitrary period prescribed elsewhere by the laws of Texas limiting the time for the administration of receiverships or of corporate affairs generally shall be applicable thereto.

"(d) Reopening. If after the liquidation shall have been closed the Liquidator shall discover assets not known to him prior to the closing, he shall report his findings to the court and it shall be within the discretion of the court as to whether the value of the after-discovered assets shall justify the reopening of the estate for continued liquidation.

"Sec. 10. Reinsurance.

"(a) Reinsurer's Liability. If the Liquidator has claims under policies covered by reinsurance, there shall be no diminution of the liability of the reinsurer because of the delinquency proceeding against the delinquent company, regardless of any provisions in the reinsurance contract to the contrary.

"(b) Notice to Reinsurers. The Liquidator shall give written notice to the affected reinsurers of the pendency of a claim against the Liquidator under a policy covered by the reinsurance within a reasonable time after such claim is filed in the liquidation proceeding, and during the pendency of such claim any affected reinsurer may investigate such claim and interpose, at its own expense, in the proceeding where the claim is to be adjusted any defense or defenses which it may deem available to insurer in liquidation or the Liquidator. The expenses thus incurred shall be chargeable against the insurer in liquidation as part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the insurer in liquidation solely as a result of the defense undertaken by the assuming insurer.

"(c) Provided, however, that Article 6.16 of the Insurance Code of 1951, Acts Regular Session of the Fifty-second Legislature, 1951, Chapter 491, page 868, shall remain in full force and effect and shall govern as to those insurance companies affected thereby.

**"Sec. 11. Evidence in Records.**

"(a) Records Admitted. All books, records, documents and papers of any delinquent insurer received by the Liquidator and held by him in the course of the delinquency proceedings, or certified copies thereof, under the hand of the Liquidator and the official seal of the Board, shall be received in evidence in all cases without proof other than the certificate of the Liquidator under the seal of the Board that the same was received from the custody of the delinquent insurer or found among its effects.

"(b) Certificates. The Liquidator shall have the authority to certify to the correctness of any paper, document or record of his office, including those described in (a) of this section, and to make certificates under seal of the Board and certified by the Liquidator certifying to any fact contained in the papers, documents, or records of the Liquidation Division; and the same shall be received in evidence in all cases in which the originals would be evidence.

"(c) Prima-facie Evidence. Such original books, records, documents and papers, or certified copies thereof, or any part thereof, when received in evidence shall be prima-facie evidence of the facts disclosed thereby.

**"Sec. 12. Liquidation.**

"The Liquidator shall be appointed by a majority of the Board of Insurance Commissioners and shall be subject to removal by a majority of said Board, and after entering upon the duties of said office shall file with the Board of Insurance Commissioners a bond in the sum of \$50,000.00, payable to the Board of Insurance Commissioners for the benefit of injured parties, conditioned upon the faithful performance of the duties of the Liquidator and all his assistants and employees, and the proper accounting for all moneys and properties and assets coming into the Liquidator's possession. The Liquidator shall employ all personnel necessary for the operation of the Liquidation Division.

**"Sec. 13. Liquidation Budget Board.**

"There is hereby constituted the Liquidation Budget Board, composed of the Attorney General, the State Auditor, and the Chairman of the Board of Insurance Commissioners. The Budget Board shall adopt, and from time to time, amend budgets which shall fix the budget for the Liquidation Division. The Liquidation Budget Board shall, in such budget, direct the purposes and prescribe the amounts for which the fees apportioned to the Liquidation Division shall be expended. The Liquidation Budget Board shall also determine the amount necessary and available for the administration of the duties of the Attorney General under this Article. The Liquidation Budget Board is directed, as far as is practical, to prescribe the budgets herein called for on a fiscal year basis beginning on September 1st of each year and ending on August 31st of each subsequent year. Immediately after the effective date of this Act the Liquidation Budget Board is directed to fix the budget for the Liquidation Division and determine the amount necessary and available for the administration of the duties of the Attorney General under this Article. Before the first day of September immediately preceding the effective date of this Act the Liquidation Budget Board shall for the next fiscal year fix the budget for the Liquidation Division and the amount necessary and available for the administration of the duties of the Attorney General under this Article, and each year thereafter in a like manner shall fix the budget of the Liquidation Division and the amount necessary and available for the administration of the duties of the Attorney General under this Article. The Liquidation Budget Board may from time to time amend the budget of the Liquidation Division and the amount projected to be spent for the conduct of the duties of the Attorney General under this Article.

**"Sec. 14. Levy of Liquidation Fee.**

"Under the direction of the Liquidation Budget Board, the Liquidator shall, levy, assess and collect an annual Liquidation Fee, and a fee for the portion of the fiscal year remaining after the effective date of this Act, based on the total assets of each insurer, covering the estimated equitable or proportionate cost of mainte-



nance and operation of the liquidation, rehabilitation and conservation of insurers under this Article. The Liquidator under the direction of the Liquidation Budget Board shall also levy, assess, and collect such a Liquidation Fee on an insurer's coming into his possession after the commencement of the fiscal year, for the balance of the fiscal year remaining. The Liquidator shall pay to the Attorney General from the fees collected the amount or amounts determined by the Liquidation Budget Board to be necessary and available for the conducting of the duties of the Attorney General under this Article. From the remaining fees the Liquidator shall pay all the expenses of the Liquidation Division in accordance with the budget therefor. The Liquidation Budget Board may direct the levying of supplemental Liquidation Fees in the event the reasonable and necessary expenses of the liquidation, rehabilitation or conservation of insurers under this article appear to be in excess of the estimates of a budget, such supplemental fees to be based on the total assets of each insurer covering the estimated equitable or proportionate costs of such additional maintenance and operation of the liquidation of insurer under this Article. After the effective date of this Act, the Liquidator may maintain the operations of the Liquidation Division making such expenditures and paying salaries, and wages out of the assets of insurers pending the initial budget and liquidation fees. He shall make a full report of such expenditures to the Liquidation Budget Board. The Liquidation Budget Board may make rules and regulations governing the expenditure of funds pending the effective operation of the initial budget.

**"Sec. 15. Reports.**

"The Liquidator shall, from time to time, as directed by the Liquidation Budget Board, submit to the Liquidation Budget Board a full and complete report of the receipts and expenditures of the Liquidation Division, and the Liquidation Budget Board may, from time to time, examine the financial records of the Liquidation Division, or cause them to be examined. The Attorney General shall, from time to time, as requested by the Liquidation Budget Board, submit to such Liquidation Budget Board a full and complete report of the receipts and expenditures of the

Attorney General's office in connection with his duties under this Article and may, from time to time, examine the financial records of the Attorney General concerning his duty under this Article, or cause them to be examined. In addition, the Liquidation Division and the Attorney General's affairs under this Article shall be audited from time to time by the State Auditor in the same manner as other departments. The Attorney General and the Liquidator may request the State Auditor to assist in the function of their duties under this Article. The Liquidation Budget Board shall, as of December 31, 1957, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements under this Article for each calendar year or part thereof; and shall, within the first sixty (60) days of each succeeding Regular Session of the Legislature make a report to the appropriate committees of the House and Senate charged with considering legislation pertaining to insurance.

**"Sec. 16. Compensation of Liquidator and Assistants, Temporary Expenses, Direct Expenses.**

"The compensation of the Liquidator and all the employees of the Liquidation Division shall be fixed by the Liquidation Budget Board. After taking over the affairs of a new insurer, the Liquidator may apply for and obtain from the Liquidation Budget Board authorization to pay out of the assets of the insurer on a temporary basis, not to exceed sixty (60) days, salaries and wages and other related expenses of temporary employees retained by the Liquidator from the payroll of the insurer, without the prior specific authorization of the Liquidation Budget Board. The Liquidation Budget Board in addition to issuing orders for payment of salaries and wages on a temporary basis, shall from time to time adopt rules and regulations describing and defining such expenses as shall be paid by the Liquidator directly from the assets of the insurer. Without restricting the Liquidation Budget Board the following are examples of items which may be classified as such Direct Expenses: Rent for premises held in connection with the liquidation of a particular insurer; expenditures for the purpose of preserving and protecting the assets of particular insurers; real estate fees and commissions and oth-

er expenses attendant the sale of real and personal property of a particular insurer; repairs to specific property of a particular insurer; taxes directly attributable to a particular insurer; court costs directly attributable to a specific insurer; legal fees for the handling of legal matters outside of the State of Texas of a particular insurer. The Liquidation Budget Board shall not classify as such Direct Expenses any payment for wages, salaries, or legal fees except those specifically mentioned as examples, provided, however, that the payment of contingent legal fees out of assets collected by an attorney designated by the Attorney General shall not be prohibited, but shall be paid out of the proceeds collected without regard to the rules and regulations of the Liquidation Budget Board with reference to Direct Expenses.

"Sec. 17. Liquidation Fees.

"The fees collected by the Liquidator and the amount of such fees transferred to the Attorney General shall be retained and held by the Liquidator and the Attorney General respectively, and shall be expended only for the purposes of carrying out the provisions of this Article, and no part of such fees shall ever be paid into the General Revenue Fund of this State.

"Sec. 18. State Employees.

"The Liquidator shall be an official of the State of Texas and his employees shall be deemed State employees; provided, however, that former employees of insurers under the supervision of the Liquidator employed by the Liquidator on a temporary basis shall not be considered State employees. The Liquidator and his employees shall be responsible to the Board of Insurance Commissioners except to the extent otherwise provided in this Article.

"Sec. 19. Attorney General.

"(a) Legal Counsel. The Attorney General shall be the legal counsel for the Liquidator in the administration of the affairs of the estates of insurers. The Attorney General may utilize Assistant Attorneys General, employ additional Assistant Attorneys General, and authorize the necessary employment of other legal counsel to be paid on a contingent fee basis out of the funds collected as a result of the efforts of such legal counsel. The Attorney General is also

authorized to employ stenographers and investigators to assist in the conduct of the duties of the Attorney General under this Article. The Attorney General shall, upon the effective date of this Act, consider contracts and employments in effect at the effective date of this Act of attorneys, not permanent members of the Liquidator's staff, arising out of the affairs of insurers in delinquency proceedings at the effective date of this Act. The Attorney General may, as in his judgment appears to be to the best interest of estates of insurers and the economy of effort in the handling of the legal affairs of delinquent insurers, cancel or modify such contracts or employments, or allow such contracts and employments to be carried to a conclusion. The Attorney General may not extend or enlarge such contracts or employments; provided, however, that such contracts or employments may be enlarged or extended so long as the extended or enlarged services are to be compensated solely out of funds collected by such attorney as a result of his activities under the extended or enlarged portion of such contract or employment. The Attorney General shall maintain supervision and control of all legal matters handled by attorneys under contract. The Attorney General may also employ other attorneys for legal work outside of the State of Texas under the rules and regulations of the Liquidation Budget Board as hereinabove provided.

"(b) Salaries, Expenses, Budget, Total Compensation. The compensation of Assistant Attorneys General, stenographers, and investigators as fixed by the Attorney General, carrying out the duties assigned the Attorney General under this Article may be paid in whole or in part from the liquidation fees herein provided to be transferred to the Attorney General to the extent that the time and efforts of such Assistant Attorneys General, stenographers, and investigators may be reasonably and equitably allocated to their duties under this Article. The total compensation paid to Assistant Attorneys General, stenographers, and investigators from funds realized from liquidation fees and moneys appropriated by the Legislature shall not exceed the amount authorized for similar work in the Attorney General's office by the then current General Appro-

priation Bill. The expenses reasonably necessary for the performance of the Attorney General's duties and his assistants to the extent attributable to his duties under this Article shall be paid from the funds collected from liquidation fees.

"(c) Budget. After the Attorney General shall have received from the Liquidator the liquidation fees apportioned to the Attorney General by the Liquidation Budget Board, he shall then forthwith prepare a budget, showing the proposed expenditure and allocation of the fees received. The Attorney General from time to time may amend and supplement such budget. Such original, amended, and supplementary budgets shall be filed by the attorney General with the Liquidation Budget Board.

**"Sec. 20. Ancillary Delinquency Proceedings.**

"Whenever under the laws of this State, a custodian or legal representative is to be appointed for an insurer domiciliary in another state, the Board of Insurance Commissioners of this State shall direct the Liquidator to take possession of the affairs of such insurer. The Board shall enter such order (a) if it finds there are sufficient assets of such insurer located in this State to justify the appointment of the Liquidator, or (b) if ten (10) or more persons resident in this State, having claims against such insurer, file a petition or petitions in writing with the Board, requesting the appointment of the Liquidator. The Liquidator shall have the right to sue for and reduce to possession the assets of such insurer in this State, and shall have the same powers and be subject to the same duties with respect to such assets as are possessed by the Liquidator in the delinquency proceedings of a domiciliary insurer under the laws of this State. The remaining provisions of this Article shall be applicable to the conduct of such ancillary proceedings.

**"Sec. 21. Contracts with Foreign Receiver or Liquidator.**

"In cases where a Receiver or Liquidator of any delinquent insurer has been appointed in some other state, and the Liquidator has taken possession of the affairs of such insurer in Texas, the Texas Liquidator, either domiciliary or ancillary, may, under the supervision of the Board of Insurance Commissioners, contract

with the Receiver or Liquidator in such other state for the administration of the affairs of their respective estates in any manner consistent with this Article which will enable the respective Receivers or Liquidators to coordinate their activities in the interest of efficiency and economy.

**"Sec. 22. Borrowing on the Pledge of Assets.**

"For the purpose of facilitating the rehabilitation, liquidation, conservation or dissolution of an insurer pursuant to this Article the Liquidator may, subject to the approval of the Liquidation Budget Board, borrow money and execute, acknowledge and deliver notes or other evidences of indebtedness therefor and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or other hypothecation of any or all of the property whether real, personal or mixed of such insurer, and the Liquidator, subject to the approval of the Liquidation Budget Board, shall have the power to take any and all other action necessary and proper to consummate any such loans and to provide for the repayment thereof. The Liquidator shall be under no obligation personally or in his official capacity as Liquidator to repay any loan made pursuant to this section.

**"Sec. 23. Other Entities.**

"Whenever a court shall find that the affairs of a corporation or other entity, not an insurer, requires the appointment of a Receiver, and that the affairs of such corporation or entity are so interwoven with the affairs of a delinquent insurer to the extent that it is not practical to administer the affairs of the insurer and such other corporation or entity separately, the court may, in its discretion, direct the Liquidator to take possession of the affairs of such corporation or other entity and administer the affairs of such corporation or other entity in conjunction with the affairs of such connected insurer in accordance with the provisions of this Article. When the Liquidator shall have taken possession of such corporation or other entity he shall collect a liquidation fee as in the case of insurers. The term 'insurer' as used in this Article shall then be interpreted to include such other corporation or entity.

**"Sec. 24. Continuation of Existing Proceedings.**

"Every proceeding heretofore commenced under the provisions of this Article prior to its amendment by this Act and under the provisions of this Article prior to its amendment by the Acts of the 54th Legislature, Chapter 267, page 737, shall be deemed to have been commenced under this Article for the purpose of conducting such proceedings henceforth; provided, however, that substantive rights already vested prior to the effective date of this Act shall not be diminished.

**"Sec. 25. Conflicts of Law.**

"In the event of conflict between the provisions of this Article and the provisions of any existing law, the provisions of this Article shall prevail, and all laws, or parts of law, in conflict with the provisions of this Article, are hereby repealed to the extent of such conflict."

Sec. 2. This Act shall be liberally construed to effectuate its purpose.

Sec. 3. If any section or portion of any section of this Act shall for any reason be declared invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of any other section or portion of section of this Act.

Sec. 4. The fact that the present laws covering the subject material of this Act are inadequate, creates an emergency, and an imperative public necessity that the Constitutional Rule requiring bills to be read in each House on three several days, and the Constitutional Rule requiring bills to take effect and go into force ninety days after adjournment of the session, be suspended, and said Rules are hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The committee amendment was read.

(Senator Aikin in the Chair.)

Senator Lane offered the following amendment to the committee amendment:

Amend Senate Bill No. 97, as amended by Committee Amendment No. 1, by striking out Section 1 of said Committee Amendment and inserting in lieu thereof the following:

"Section 1. That Article 21.28, of the Insurance Code, 1951, as amended, be amended to be and read as follows:

**"Article 21.28. Liquidation and Rehabilitation of Insurers.**

Section 1. Definitions. For the purposes of this Article:

"(a) 'Insurer' means and includes capital stock companies, reciprocal or interinsurance exchanges, Lloyds' associations, fraternal benefit societies, mutual and mutual assessment companies of all kinds and types, statewide assessment associations, local mutual aids, burial associations, county and farm mutual associations, fidelity, guaranty and surety companies, trust companies organized under the provisions of Chapter 7 of the Texas Insurance Code of 1951, and all other organizations, corporations, or persons transacting an insurance business, or are in the process of organization for the purposes of or intending to do such business, unless by statute specifically be naming this Article, exempted from the operation of this Article.

"(b) 'Delinquency proceeding' means any proceeding commenced by the Board of Insurance Commissioners of the State of Texas for the purpose of liquidating, rehabilitating, or conserving the assets of an insurer and any proceeding commenced by the State for the forfeiture of the charter of an insurer.

"(c) 'Assets' means all property, real or personal, whether specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons, or a limited class or classes of persons. The word 'assets,' as used in this Article, includes all deposits and funds of a special or trust nature.

"(d) 'Liquidator' means the person designated by the Board of Insurance Liquidation as liquidator, rehabilitator, or conservator of all insurers.

"(e) 'Board' means the Board of Insurance Commissioners of the State of Texas.

"(f) 'Court,' unless the same clearly appears to the contrary from the text of this Article, means the court in which the delinquency proceeding is pending.

"(g) 'Liquidation Division' shall refer to the Liquidator and his permanent staff.

**"Sec. 2. General Procedures.**

"(a) Liquidator taking Possession. Whenever the Board finds that grounds for rehabilitation, conservation or liquidation of an insurer exists and that it is to the best interests of the creditors and policyholders of

such insurer that the insurer be rehabilitated, conserved, or liquidated, the Board shall direct the Liquidator to take possession of the affairs of such insurer. A copy of the order of the Board directing the Liquidator to take possession of an insurer shall be filed in the District Court of Travis County, Texas, as an original proceeding, and such court shall be considered the court in which delinquency proceedings are pending.

Before the Board issues its order directing the Liquidator to take possession of an insurer, he shall notify such insurer of the facts which make necessary the appointment of the Liquidator. If the insurer fails or refuses to file with the Board, within ten (10) days from the date of the Board's official notice, satisfactory evidence that the matters complained of have been cured to the satisfaction of the Board, the Board shall direct the Liquidator to take possession of the affairs of such insurer. Immediately upon notification by the Board of the facts which make necessary the appointment of the Liquidator, the Board may direct the Liquidator or some other employee of the Board to preserve the affairs of such insurer pending the order directing the Liquidator to take possession, and thereafter, until the Board shall direct the Liquidator to take possession of the affairs of such insurer for the purpose of rehabilitation, conservation or liquidation, or the insurer has produced satisfactory proof of its compliance with the matters objected to by the Board, none of the assets, funds or properties of such insurer shall be expended without the prior approval of the Liquidator or such other designated employee of the Board. The insurer may, if it so desires, file with the Board a statement that it does not intend to comply with the notice of the Board to show cause and upon the receipt of such notice the Board may then direct the Liquidator to take possession for the purpose of rehabilitation, conservation or liquidation as the facts may require, and thereupon the order of the Board directing the Liquidator to take possession of such insurer for the purpose of rehabilitation, conservation or liquidation shall be appealable as provided in Subsection (h) of Sec. 2 of this Article and not otherwise. The order directing the Liquidator or some other employee of the Board to take possession of the af-

fairs of an insurer for the purpose of preserving the assets pending the order of the Board directing the Liquidator to take possession for the purpose of rehabilitation, conservation or liquidation shall not be appealable.

"(b) Exclusive Method of Liquidation, Rehabilitation, and Conservation. The methods of liquidation, rehabilitation, and conservation, as provided for in this Article shall be exclusive and no insurer shall make an assignment for the benefit of creditors, nor shall any court appoint a Receiver for any insurer. Whenever a court of this State finds that the affairs of an insurer are in such condition that would justify the appointment of a Receiver except for the foregoing prohibition, the Court shall direct the Liquidator to take possession of the affairs of such insurer and the Liquidator shall commence conducting the affairs of such insurer pursuant to the provisions of this Article.

"(c) Voluntary Liquidation. A solvent insurer may be closed and liquidated upon the written consent or vote of the owners of two-thirds (2/3) of its capital, which consent, or the resolution adopted by the stockholders shall specify the date when such insurer is to be closed, and shall designate one or more individuals to act as the liquidating agent, who shall conduct the liquidation under the supervision of the Board of Directors, after giving suitable bond as prescribed by said Board of Directors and approved by the Board of Insurance Commissioners. Prior to the closing of such insurer, the Directors shall file with the Board of Insurance Commissioners a transcript of the proceedings authorizing the closing of the insurer. Notice to its policyholders and creditors to present their claims shall be published once a week for thirteen (13) weeks, beginning within ten (10) days after the closing of the insurer, in two (2) newspapers printed within this State which have a general circulation in this State. Upon presentment of lawful claims, the insurer shall pay its policyholders and creditors. The liquidating agent shall make a written report to the stockholders at each annual meeting, a copy of which, signed and sworn to by the liquidating agent, shall be filed with the Board of Insurance Commissioners. The stockholders at any regular or

special meeting may remove the liquidating agent and name a successor. The Board of Insurance Commissioners may from time to time examine the liquidating insurer and may, if the policyholders and creditors are not paid upon presentment of their lawful claims, or if, prior to the payment of all policyholders and creditors, the Board finds any condition which would authorize the liquidation, rehabilitation or conservation of the insurer were it not in voluntary liquidation, direct the Liquidator to take possession of the assets and liquidate the same in the manner herein provided for the involuntary rehabilitation, conservation, or liquidation of insurers. Upon the expiration of six (6) months from the first publication of notice as above provided, the insurer shall file with the Board of Insurance Commissioners an affidavit sworn to by a majority of the qualified directors stating that all policyholders and creditors who have presented their claims, giving their addresses as shown by the books of the insurer and the amounts respectively due each. Such affidavit shall be accompanied by a publisher's certificate showing publication of notice as above provided, and by a sum equal to the aggregate amount due the nonclaiming policyholders and creditors. The Board of Insurance Commissioners shall hold such money for the benefit of said policyholders and creditors in the manner provided in Subsections (e) and (f) of Section 8 of this Article. At any time after the filing of such affidavit, the Board of Directors may distribute the remaining assets among the shareholders in proportion to their ownership of stock in the insurer and shall thereafter file with the Board of Insurance Commissioners an affidavit sworn to by a majority of the qualified Directors showing such distribution. The filing of such affidavit and the approval thereof by the Board of Insurance Commissioners shall have the effect of canceling the charter of the insurer without the necessity of any judicial action. No insurer which has been closed pursuant to the provisions of this subsection shall resume business or reopen without the proper written consent of the Board of Insurance Commissioners.

"(d) Grounds for Rehabilitation: The Board may direct the rehabilitation of an insurer upon any one or

more of the following grounds: that such insurer (1) is insolvent; or (2) has refused to submit its books, papers, accounts or affairs to the reasonable inspection of the Board or its examiners; or (3) has failed or refused to make good an impairment of capital or surplus as required by law; or (4) has, by contract of reinsurance or otherwise, transferred or attempted to transfer substantially its entire property or business or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other corporation, association, society, order, firm, or individual, without having first obtained the written approval of the Board; or (5) is found to be in such condition by the Board that its further transaction of business will be hazardous to its policyholders or its creditors; or (6) has willfully violated its charter or any of the provisions of the laws of this State; or (7) retains after notice from the Board an officer, agent or employee who has refused to be examined under oath, concerning its affairs; or (8) has ceased to do the business of insurance for a period of one (1) year; or (9) has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian or sequestrator under any law except this Article; or (10) has been the subject of an application for the appointment of a receiver, trustee, custodian, or sequestrator of the insurer or its property, or if a receiver, trustee, custodian, or sequestrator is appointed by a federal court, or if such appointment is imminent; or (11) has consented to an order for the appointment of a receiver, trustee, custodian or sequestrator through a majority of its directors, stockholders, or members, or (12) has not organized or completed its organization and obtained a license or certificate authorizing it to commence the doing of an insurance business within one (1) year from the date of its incorporation; or (13) is found to be in such condition by the Board as requires the appointment of a conservator under the provisions of this Code; or (14) has failed or refused to take such steps under the provi-

sions of Article 1.14 of this Code as may be necessary to remove from office any officer or director whom the Board has found not worthy of public confidence; or (15) has had its charter canceled.

"(e) Order of Rehabilitation. (1) An order to rehabilitate shall direct the Liquidator forthwith to take possession of the property of such insurer and to conduct the business thereof, and to take such steps toward the removal of the causes and conditions which have made such proceeding necessary. (2) If at any time the Liquidator shall deem that further efforts to rehabilitate such insurer would be futile, he shall make such fact known to the Board, and the Board may then direct that such insurer be liquidated if grounds for liquidation exist. The order of the Board directing liquidation shall be filed with the court and the order of the Board may be appealed in the same manner as though the Board had directed the liquidation of such insurer initially under this Article. (3) The Liquidator or the insurer, acting through its Board of Directors, at any time may apply to the Board for an order terminating any rehabilitation proceeding, and permitting such insurer to resume possession of its property and the conduct of its business. The insurer may appeal the order of the Board denying such termination to the court. No order terminating the rehabilitation shall be granted until it shall have been determined that the purposes of the proceeding have been fully accomplished.

"(f) 'Grounds for Liquidation.' The Board may direct the liquidation of an insurer upon any one or more of the grounds specified in Subdivisions (1), (3), (5), (8), (9), (10), (12), (15) of Subsection (d) of Section 2, of this Article.

"(g) 'Order of Liquidation; Rights and Liabilities.' (1) An order to liquidate the business of an insurer shall direct the liquidator and his successors in office forthwith to take possession of the property of such insurer and to liquidate the business of the same and to deal with the property and business of such insurer in his own name. (2) The liquidator and his successors in office shall be vested by operation of law with the title to all property, contracts and rights of action of such insurer as of the date of the entry of an order directing the

liquidation of such insurer. The rights and liabilities of any such insurer and of its creditors, policyholders, stockholders, members and all other persons interested in its estate shall be fixed as of the date of the entry of the order directing the liquidation of such insurer. On application by the liquidator or an interested party within thirty (30) days of the date of entry of an order directing the liquidation of an insurer, the court may upon notice and hearing direct such rights and liabilities be fixed at such a date as will provide a more equitable distribution of the assets.

"(h) 'Contest of Liquidation or Rehabilitation.' At any time within five (5) days after the Board shall have filed the order directing the rehabilitation, liquidation or conservation of an insurer, such insurer, acting through its directors, may appeal the action of the Board in the District Court of Travis County. Said Court, or the judge thereof if in vacation, may, without notice or hearing, restrain the Liquidator from liquidating the assets of such insurer pending hearing on the merits, and shall, in that event, instruct the Liquidator to hold the assets of such insurer in his possession pending final disposition of such suit. The Liquidator shall thereupon refrain from liquidating such assets, provided, however, the Liquidator may, with the approval of the judge, take such action as may be necessary or proper to prevent loss or depreciation in the value of the assets. The Court shall, as soon as possible, hear the suit upon its merits and shall enter a judgment enjoining the Liquidator from liquidating or rehabilitating or conserving the assets of such insurer, or refusing such injunction. Appeal shall lie from such judgment as in other civil cases, but the Liquidator, irrespective of the character of judgment entered by the trial court or any supersedeas bond filed, shall retain possession of the assets of such insurer pending final disposition on appeal.

"(i) 'Disposal of Property.' The Liquidator may, upon such terms and conditions as he may deem for the best interests of the creditors of an insurer under his supervision, (1) sell or otherwise dispose of the property, or any part thereof, of an insurer under his supervision, and (2) sell or compound all doubtful or uncollectible debts, or claims owed by or owing to such insurer, including

claims based upon an assessment levied against a member of a mutual insurer, reciprocal exchange, an underwriter at Lloyds, or stockholder. The Liquidator shall file with the Clerk of the Court a report of such sales, disposals, or compromises. Such sales, disposals, or compromises shall become final at a date not less than five (5) days from the date of filing, specified in such report unless a petition objecting to such sale, disposal, or compromise, be filed in the Court by a party interested. Such action shall have precedence over all other causes on the docket of a different nature. The burden shall be upon the party objecting to show that the Liquidator has abused his discretion in such sale, disposal, or compromise. Any party to said action may appeal as in other civil cases. The Liquidator may, subject to the approval of the Court, sell or agree to sell, or offer to sell, any assets of such an insurer to such of its creditors who may desire to participate in the purchase thereof, to be paid for, in all or in part, out of dividends payable to such creditors and, upon application of the Liquidator, the Court may designate representatives to act for such creditors in the purchase, holding and/or management of such assets, and the receiver may, subject to the approval of the Court, advance the expense of such representatives against the security of the claim of such creditors. Notice of any sale, disposal, or compromise, or any other proposed action under this subsection shall be given by posting copies of such report or application for a period of not less than three (3) days at some prominent place at the principal office of the Liquidator and at the Courthouse of Travis County, Texas.

"(j) Bonds. The Liquidator shall be responsible, on his official bond hereinafter provided for, for all assets coming into his possession. An interested party may apply to the Court for an order requiring an additional bond or bonds from said Liquidator, any special deputy Liquidator, or other assistant or employee respecting the liquidation of a particular insurer.

"(k) Inventory. An inventory in duplicate of the insurer's assets shall be prepared forthwith by the Liquidator, one of which shall be filed in the office of the Board, and one in the office of the Clerk of the Court, which inventories shall be open to inspection.

"(l) Depositories. All money col-

lected by the Liquidator shall be forthwith deposited in any bank or banks in this State which are members of the Federal Deposit Insurance Corporation or any building and loan association doing business in this State, and which are members of the Federal Savings and Loan Insurance Corporation. The funds collected or realized from the assets of each insurer shall be kept separate and apart from all other funds. Whenever any account in any such bank exceeds the amount insured by said Federal Deposit Insurance Corporation, or if in a building and loan association, exceeds the maximum amount insured by the Federal Savings and Loan Insurance Corporation, the Liquidator is hereby authorized and directed to make such contracts and require such security as he may deem proper for the safeguarding of such deposit upon the approval of the Board of Insurance Liquidation.

#### "Sec. 3. Claims.

"(a) Time for Filing. Where liquidation of an insurer has been directed all persons who may have claims against such insurer shall present proof of the same to the Liquidator at a place specified by the Liquidator within one hundred eighty (180) days after the entry of an order of liquidation. The Liquidator shall notify all persons who may have claims against such insurer as disclosed by its books and records to present proof of the same to him within said one hundred eighty (180) days. Such notice may be given by ordinary mail.

"(b) Late Filing. Claims filed subsequent to the expiration of said one hundred eighty (180) days but prior to the expiration of one (1) year after the entry of an order of liquidation may participate only in future dividends. Claims which are not filed within the expiration of such one-year period shall not participate in any distribution of the assets by the Liquidator.

"(c) Proof Necessary. A proof of claims shall consist of a written statement under oath signed by the claimant, setting forth the claim, the consideration therefor, and whether any, and if so, what securities are held therefor, and any right of priority of payment or other specific rights asserted by the claimant, and whether any, and if so, what payments have been made thereon, and such other matters as may be required by the



Liquidator, and that the sum claimed is justly owing from the insurer to the claimant. Whenever a claim is founded upon an instrument in writing, such instrument, unless lost or destroyed, shall be filed with the proof of claim. After filing of such instrument, the Liquidator may, in his discretion, permit the claimant to substitute a true copy of such instrument, until the final disposition of the claim. If such instrument is lost or destroyed, a statement of such fact and of the circumstances of such loss or destruction shall be filed under oath with the claim.

"(d) Contingent Claims. No contingent claim shall share in a distribution of the assets of an insurer in liquidation except that such claim shall be considered if properly presented, and may be allowed to share where (1) such claim becomes absolute against the insurer on or before the last day fixed for filing of proof of claims against the assets of such insurer, or (2) there is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent. For the purposes of this Article, 'contingent claims' means a claim for which the right of action is dependent upon the occurrence or nonoccurrence of some future event which may or may not happen.

"(e) Third Party Claims. Where a liquidation order has been entered in a proceeding against an insurer any person who has a cause of action against an insured of such insurer under a liability insurance policy issued by such insurer, shall have the right to file a claim with the Liquidator, regardless of the fact that such claim may be contingent, and such claim may be approved (1) if it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured; and (2) if such persons shall furnish suitable proof that no further valid claims against such insurer arising out of his cause of action other than those already presented can be made; and (3) if the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than its total liability would be were it not in liquidation. No judgment against an insured taken after the date of the entry of the order of liquidation shall be considered in the

liquidation proceeding as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default or by collusion prior to the commencement of the liquidation proceedings shall be considered as conclusive evidence in the proceeding, either of the liability of such insured to such person upon such cause of action, or of the amount of damages to which such person is therein entitled.

"(f) Offsets. In all cases of mutual debts or mutual credits between the insurer and another person in connection with any claim or proceeding under this Article, such credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in subsection (g) of this section.

"(g) No Offsets. No offsets shall be allowed in favor of any person, however, where (1) the obligation of the insurer to such person would not at the date of the entry of the order of liquidation or as otherwise provided in Section 2(b) entitle him to share as a claimant in the assets of such insurer, or (2) the obligation of the insurer to such person was purchased by or transferred to such person subsequent to the entry of the liquidation order or with a view of its being used as an offset, or (3) the obligation of such person is to pay an assessment levied against the members of a mutual insurer, or reciprocal exchange, or underwriters at Lloyds, or to pay a balance upon a subscription to the capital stock of a stock insurance corporation, or (4) the obligation of such person is as a trustee or fiduciary.

"(h) Action on Claims. The Liquidator shall have the discretion to approve or reject any claim filed against the insurer. Objections to any claim not rejected may be made by any party interested, by filing the objections in the Court within ten (10) days after the approval of such claim by the Liquidator. The Court shall determine the propriety of the Liquidator's action after notice and hearing and shall enter such order as is appropriate in the premises. Upon the rejection of each claim, either in whole or in part, the Liquidator shall notify the claimant of such rejection by written notice. Action upon a claim so rejected must be brought in the court in which the delinquency proceeding is pending within ninety (90)

days after the service of notice; otherwise, the action of the Liquidator shall be final and not subject to review. Such action shall be de novo as if originally filed in said court and subject to the rules of procedure and appeal applicable to civil cases.

**"Sec. 4. Actions.**

**"(a) Injunctions.** Upon an application by the Liquidator or the Attorney General, the court in which the delinquency proceeding is pending may, with or without notice, issue an injunction restraining the insurer named in the order, its officers, directors, stockholders, members, trustees, agents, servants, employees, policyholders, attorneys, managers, attorney-in-fact, associate, deputy, substitute attorneys-in-fact, and all other persons from the transaction of its business or the waste or disposition of its property, or requiring the delivery of its property and/or assets to the Liquidator subject to the further order of the Court.

**"(b) Other Orders.** Such Court may at any time during a proceeding under this Article issue such other injunctions or orders as may be deemed necessary to prevent interference with the Liquidator or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of any actions, or the obtaining of preferences, judgments, attachments, garnishments, or other liens, or the making of any levy against the insurer or against its assets or any part thereof.

**"(c) No Preferences.** Any claim, judgment, lien or preference against the insurer or its Liquidator obtained, after the date of commencement of delinquency proceedings, in derogation of the terms of any such injunction or order of the Court may be denied by the Liquidator until proof of the justness of such claim, judgment, lien, preference or demand is made before and approved by the court.

**"(d) Pending Lawsuits.** No judgment or order rendered by any court of this State in any action pending by or against the delinquent insurer after the commencement of delinquency proceedings shall be binding upon the Liquidator or the insurer unless the Liquidator shall have been made a party to such suit.

**"(e) One Year Extension.** The Liquidator shall not be required to plead to any suit in which he may be

a proper party plaintiff or defendant, in any of the courts in this State until one (1) year after the date of the order directing liquidation of an insurer.

**"(f) New Lawsuits.** The court of competent jurisdiction of the county in which the delinquency proceedings are pending under this Article shall have venue to hear and determine all actions or proceedings instituted after the commencement of delinquency proceedings by or against the insurer or Liquidator.

**"(g) The provisions of Articles 2310 and 2311 of the Revised Civil Statutes of Texas of 1925, as amended, shall not apply to insurers being administered under this Article.**

**"Sec. 5. Voidable Transfers.**

**"(a) Transfers or liens voidable.** Any transfer of or lien upon the property or assets of an insurer which is made or created within four (4) months prior to the order directing the Liquidator to take possession of an insurer, with the intent of giving to any creditor or enabling him to obtain a greater percentage of his debt than of any other creditor of the same class, and which is accepted by such creditor, having reasonable cause to believe that such preference will occur, shall be voidable.

**"(b) Personal Liability.** Every director, officer, agent, employee, stockholder, member, attorney-in-fact, associate, substitute or deputy attorney-in-fact, underwriter, subscriber, and any other person acting on behalf of such insurer, who shall be concerned in any such prohibited act or deed, and every person receiving thereby property of such insurer, or the benefit thereof, shall be personally liable therefor, and shall be bound to account to the Liquidator for the benefit of the creditors of the insurer.

**"(c) Avoiding and Recovery.** The Liquidator in any proceeding under this Article, may avoid any transfer of, or lien upon the property or assets of an insurer which any creditor, stockholder or member of such insurer might have avoided, and may recover the property so transferred or its value from the person to whom it was transferred, unless he was a bona fide holder for value prior to the date of the commencement of proceedings under this Article. Such property or its value may be recovered from anyone who has received it, except a bona fide holder for value as above specified.

"Sec. 6. Priority of Claims for Wages. All wages actually owed to employees of an insurer against whom an order of liquidation has been entered, for services rendered within three (3) months prior to the filing of such order of liquidation, not exceeding Three Hundred Dollars (\$300) to each employee, shall be paid prior to the payment of every other debt or claim, and in the discretion of the Liquidator may be paid as soon as practicable after the proceeding has been commenced, except that at all times there shall be reserved such funds as will be sufficient for the expenses of administration of the estate.

"Sec. 7. Assessments.

"(a) Application. Within four (4) years from the date of an order of rehabilitation, conservation or liquidation, of a domestic insurer, the Liquidator may make an application to the Court to levy an assessment against the members of a mutual insurer, or the underwriters or members of a reciprocal exchange, or the underwriters at Lloyds or the holders of stock on which there is an unpaid subscription contract. Such application shall set forth the reasonable value of the assets of such insurer, its probable liabilities, and the probable necessary assessment, if any, to pay all possible claims and expenses in full, including expenses of administration and collection.

"(b) Levy. Upon such notice as may be designated by the court, the court shall proceed to consider such report and may levy one or more assessments. Such assessment or assessments shall cover the excess of the probable liabilities over the reasonable value of the assets, together with the estimated cost of collection and percentage of uncollectibility thereof. No such assessment shall be levied against any member or subscriber with respect to any policy which contains a nonassessable or noncontingent liability provision or provisions and which has been issued under authority granted by the Board.

"(c) Collection. After the entry of such an order of assessment and the expiration of the time for appeal, the Liquidator shall proceed to collect such assessments, and for the purpose of such collection may bring suit for the same in any court of competent jurisdiction in the county in which such delinquency proceeding is pending.

"(d) Provisions Cumulative. The provisions of this Section are cumulative of any other remedies for the levy and collection of assessments.

"Sec. 8. Distribution of Assets.

"(a) Payments to Creditors. At such time or times as may be appropriate, the Liquidator shall file with the Clerk of the Court lists of approved claims showing the names of the claimants and the amount of such claims. The Liquidator shall, at such times as the affairs of an insurer permit, declare dividends. He shall file with the Clerk of the Court schedules showing the names of the distributees and the amount of the distributions. Ten (10) days after filing such report the Liquidator may pay such proposed dividends in the absence of any objection filed by an interested party with the court.

"(b) Interest. Interest shall not accrue on any claim subsequent to the date of the entry of the order of liquidation.

"(c) Foreign Claimants. If any claimant of another state or foreign country shall be entitled to or shall receive a dividend upon his claim out of a statutory deposit or the proceeds of any bond or other asset located in such other state or foreign country, then such claimants shall not be entitled to any further dividend from the Liquidator until and unless all other claimants of the same class, irrespective of residence or place of the acts or contracts upon which their claims are based, shall have received an equal dividend upon their claims; and after such equalization, such claimants shall be entitled to share in the distribution of further dividends by the Liquidator, along with and like all other creditors of the same class, wheresoever residing.

"(d) Setoff by Liquidator. Upon the declaration of a dividend, the Liquidator shall apply the amount of such dividend against any indebtedness owed to the insurer by the person entitled to such dividend.

"(e) Unclaimed Dividends. Unclaimed dividends on approved claims remaining in the Liquidator's hands after payment of the final dividend shall be delivered to the Board. Such funds shall be deposited by the Board in trust in a special account to be maintained with the State Treasurer.

"(f) Escheat. On receipt of satisfactory written and verified proof of ownership within two (2) years from the date such funds are so de-

posited with the State Treasurer, the Board shall certify such facts to the Comptroller of Public Accounts, who shall issue proper warrant therefor in favor of the parties respectively entitled thereto drawn on the State Treasurer. Any such money remaining unclaimed with the Board for two (2) years shall then escheat to the State."

"Sec. 9. Closing.

"(a) Excess Assets—Stock Companies. When the Liquidator shall have made provision for unclaimed dividends and all of the liabilities of a stock insurance company, he shall call a meeting of the stockholders of the insurer by giving notice thereof by publishing for three successive weeks in two newspapers printed in this State which have a general circulation in this State, and by written notice to the stockholders of record at their last known addresses. At such meeting the stockholders shall appoint an agent or agents to take over the affairs to continue the liquidation for benefit of the stockholders. Voting privileges shall be governed by the insurer's bylaws. A majority of the stock shall be represented at the agent's appointment. Such agent or agents shall execute and file with the court such bond or bonds as shall be approved by it, conditioned on the faithful performance of all the duties of the trust. Under order of the Court the Liquidator shall then transfer and deliver to such agent or agents for continued liquidation under the court's supervision all assets of the insurer remaining in his hands, whereupon the Liquidator and his employees shall be discharged from any further liability to such insurer and its creditors and stockholders; provided, however, that nothing herein contained shall be so construed as to permit the insurer to continue in business.

"(b) Excess Assets—Other Companies. After the Liquidator shall have made provision for unclaimed dividends and all of the liabilities of any insurer other than a stock insurance company, he shall dispose of any remaining assets as directed by the court.

"(c) No Limitation. Each delinquency proceeding prescribed by this Article shall be administered continuously hereunder for whatever length of time is necessary to effectuate its purposes. No arbitrary period prescribed elsewhere by the

laws of Texas limiting the time for the administration of receiverships or of corporate affairs generally shall be applicable thereto.

"(d) Reopening. If after the liquidation shall have been closed the Liquidator shall discover assets not known to him prior to the closing, he shall report his findings to the court and it shall be within the discretion of the court as to whether the value of the after-discovered assets shall justify the reopening of the estate for continued liquidation.

"Sec. 10. Reinsurance.

"(a) Reinsurer's Liability. If the Liquidator has claims under policies covered by reinsurance, there shall be no diminution of the liability of the reinsurer because of the delinquency proceeding against the delinquent company, regardless of any provisions in the reinsurance contract to the contrary.

"(b) Notice to Reinsurers. The Liquidator shall give written notice to the affected reinsurers of the pendency of a claim against the Liquidator under a policy covered by the reinsurance within a reasonable time after such claim is filed in the liquidation proceeding, and during the pendency of such claim any affected reinsurer may investigate such claim and interpose, at its own expense, in the proceeding where the claim is to be adjusted any defense or defenses which it may deem available to insurer in liquidation or the Liquidator. The expenses thus incurred shall be chargeable against the insurer in liquidation as part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the insurer in liquidation solely as a result of the defense undertaken by the assuming insurer.

"(c) Provided, however, that Article 6.16 of the Insurance Code of 1951, Acts Regular Session of the Fifty-Second Legislature, 1951, Chapter 491, page 868, shall remain in full force and effect and shall govern as to those insurance companies affected thereby.

"Sec. 11. Evidence in Records.

"(a) Records Admitted. All books, records, documents and papers of any delinquent insurer received by the Liquidator and held by him in the course of the delinquency proceedings, or certified copies thereof, under the hand and official seal of the Liquidator, shall be received in evidence in all cases without proof other

than the certificate of the Liquidator that the same was received from the custody of the delinquent insurer or found among its effects.

"(b) Certificates. The Liquidator shall have the authority to certify to the correctness of any paper, document or record of his office, including those described in (a) of this section, and to make certificates certified by the Liquidator certifying to any fact contained in the papers, documents, or records of the Liquidation Division; and the same shall be received in evidence in all cases in which the originals would be evidence.

"(c) Prima-facie Evidence. Such original books, records, documents, and papers, or certified copies thereof, or any part thereof, when received in evidence shall be prima-facie evidence of the facts disclosed thereby.

"Sec. 12. Liquidator, Assistants.

"The Liquidator shall be appointed by a majority of the Board of Insurance Liquidation and shall be subject to removal by a majority of said Board of Insurance Liquidation, and after entering upon the duties of said office shall file with the Board of Insurance Liquidation a bond in the sum of \$50,000.00, payable to the Board of Insurance Liquidation for the benefit of injured parties, conditioned upon the faithful performance of the duties of the Liquidator and all his assistants and employees, and the proper accounting for all moneys and properties and assets coming into the Liquidator's possession. The Liquidator shall employ all personnel necessary for the operation of the Liquidation Division. The Liquidator shall be an official of the State of Texas and his employees shall be deemed State employees; provided, however, that former employees of insurers under the supervision of the Liquidator employed by the Liquidator on a temporary basis shall not be considered State employees. The Liquidator and his employees shall be responsible in the performance of their duties to the Board of Insurance Liquidation. The Liquidator shall file a report with the Board of Insurance Commissioners and the Court within one year after taking charge of an organization, and annually thereafter, showing the operation, receipts, expenditures, and general condition of any such organization.

"Sec. 13. Board of Insurance Liquidation.

"There is hereby constituted the Board of Insurance Liquidation composed of the Attorney General, the Comptroller of Public Accounts, and the Chairman of the Board of Insurance Commissioners. The Board of Insurance Liquidation shall adopt, and from time to time amend, budgets for the Liquidation Division. The Board of Insurance Liquidation shall also determine the amount necessary and available for the administration of the duties of the Attorney General under this Article. The Board of Insurance Liquidation is directed, as far as is practical, to prescribe the budgets herein called for on a fiscal year basis beginning on September 1st of each year and ending on August 31st of each subsequent year. Immediately after the effective date of this Act the Board of Insurance Liquidation is directed to fix the budget for the Liquidation Division and determine the amount necessary and available for the administration of the duties of the Attorney General under this Article for the balance of the fiscal year remaining. Thereafter the Board of Insurance Liquidation shall, on an annual fiscal year basis, fix the budget for the Liquidation Division and the amount necessary and available for the administration of the duties of the Attorney General under this Article. The Board of Insurance Liquidation may from time to time amend the budget of the Liquidation Division and the amount projected to be spent for the conduct of the duties of the Attorney General under this Article. The Board of Insurance Liquidation shall select one of its members to be chairman.

"Sec. 14. Maintaining Liquidation.

"After the effective date of this Act, the Liquidator may maintain the operations of the Liquidation Division, making such expenditures and paying salaries and wages out of the assets of insurers pending the initial budget. He shall make a full report of such expenditures to the Board of Insurance Liquidation. The Board of Insurance Liquidation may make rules and regulations governing the expenditures of funds pending the effective operation of the initial budget.

"Sec. 15. Reports.

"The Liquidator shall, from time to time, as directed by the Board of Insurance Liquidation, submit to the Board of Insurance Liquidation a full and complete report of the receipts and expenditures of the Li-

liquidation Division, and the Board of Insurance Liquidation may, from time to time, examine the financial records of the Liquidation Division, or cause them to be examined. The Attorney General shall, from time to time, as requested by the Board of Insurance Liquidation, submit to such Board of Insurance Liquidation a full and complete report of the receipts and expenditures of the Attorney General's office in connection with his duties under this Article and may, from time to time, examine the financial records of the Attorney General concerning his duty under this Article, or cause them to be examined. In addition, the Liquidation Division and the Attorney General's affairs under this Article shall be audited from time to time by the State Auditor in the same manner as other departments. The Attorney General and the Liquidator may request the State Auditor to assist in the function of their duties under this Article. The Board of Insurance Liquidation shall, as of December 31, 1957, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements under this Article for each calendar year or part thereof; and shall, within the first sixty (60) days of each succeeding Regular Session of the Legislature make a report to the appropriate committees of the House and Senate charged with considering legislation pertaining to insurance.

"Sec. 16. Compensation of Liquidator and Assistants.

"The compensation of the Liquidator and all the employees of the Liquidation Division shall be fixed by the Board of Insurance Liquidation. The compensation of the Liquidator and his employees and the other expenses of liquidation shall be paid out of the funds of the insurer on approval of the Board of Insurance Liquidation, and shall be paid from the funds of the insurer to which the same may be reasonably and equitably allocated.

"Sec. 17. Rules.

"The Board of Insurance Liquidation is authorized to make such rules as it may deem necessary governing the method of paying compensation and expenses herein provided for. The Board of Insurance Liquidation may make such other rules governing its function and the function of the Liquidation Division as may be deemed necessary.

"Sec. 18. Estate of Certain Insurers.

"In the event the Liquidator shall find that the liquid funds of an insurer are not sufficient to pay the necessary expenses of liquidation, and that there are other assets or claims of such insurer which, if recovered or liquidated, would in his judgment provide a reasonably substantial dividend, after expenses of liquidation, and that in his judgment there is a reasonable probability that such assets or claims may be recovered or liquidated, and that he is unable to negotiate an advantageous and adequate loan secured by such assets or claims, he shall file a statement to that effect with the Board of Insurance Liquidation. Such statement shall also state the amount of funds which, in the Liquidator's judgment, are reasonably required, in addition to those possessed by the Liquidator for the benefit of such insurer, to accomplish the recovery or liquidation of such assets or claims. The Board of Insurance Liquidation, if it be satisfied that the statement of the Liquidator is correct, may then in its discretion authorize the payment of such necessary expenses of liquidation as it may deem necessary from such funds as may be appropriated by the Legislature for this purpose. The Board of Insurance Liquidation shall allocate the expenditure of such funds. In the event the Board of Insurance Liquidation decides that such expenditures should not be made, or the Legislature shall not have appropriated funds for such a purpose, the Liquidator may close out the liquidation of such insurer as is herein provided. In the event the Liquidator finds that the liquid funds of an insurer are not sufficient to pay the necessary expenses of liquidation, and that the probability of the accumulation of a fund from the liquidation or recovery of the other assets or claims sufficient to pay a substantial dividend to the creditors, after expense, would not justify the expense of attempting to liquidate or recover such claims or assets, he may file a statement to that effect with the Board of Insurance Liquidation. The Board of Insurance Liquidation may then, in its discretion, authorize the payment of the necessary expenses of closing the liquidation of such insurer from such funds as may be appropriated by the Legislature for this purpose. Thereafter the Liquidator

may close the liquidation of such insurer as is herein provided. When the Liquidator shall elect to close out the liquidation of an insurer under the provisions of this Section, he shall file with the court a statement to that effect, setting forth the facts which require such closing. He shall also file a report of his activities in the liquidation of such insurer and a final accounting. If there be no objection filed by an interested party within ten (10) days of filing such statement, report and final account, and the court is satisfied that the Liquidator has properly accounted for all of the assets of such insurer coming into his hands, the Liquidator and his employees shall be discharged from any further liability to such insurer and its creditors and stockholders. The court may thereupon enter such order as it may deem necessary for the disposition of any of the remaining assets. In the event moneys appropriated by the Legislature are spent for the liquidation of an insurer under the provisions of this Section, a first and prior lien on the assets of such insurer shall then exist in behalf of the State, and any funds then on hand or thereafter received by the Liquidator, and which are not required for the payment of expenses of liquidation of such insurer, shall be paid to the General Revenue Fund to the extent of the expenditure of appropriated moneys.

"Sec. 19. Attorney General.

"(a) Legal Counsel. The Attorney General shall be the legal counsel for the Liquidator in the administration of the affairs of the estates of insurers. The Attorney General may utilize Assistant Attorneys General and employ additional Assistant Attorneys General. The Attorney General is also authorized to employ stenographers and investigators to assist in the conduct of the duties of the Attorney General under this Article. The Attorney General shall, upon the effective date of this Act, consider for the purposes hereinafter set forth existing contracts and employments of attorneys, not permanent members of the Liquidator's legal staff, arising out of the affairs of insurers in delinquency proceedings at the effective date of this Act. The Attorney General may, as in his judgment appears to be to the best interest of estates of insurers and the economy of effort in the handling of the legal affairs of

delinquent insurers, cancel or modify such contracts or employments, or allow such contracts and employments to be carried to a conclusion. The Attorney General may not extend or enlarge such contracts or employments; provided, however, that such contracts or employments may be enlarged or extended so long as the extended or enlarged services are to be compensated solely out of funds collected by such attorney as a result of his activities under the extended or enlarged portion of such contract or employment. The Attorney General shall maintain supervision and control of all legal matters handled by attorneys under contract. The Attorney General may also employ legal counsel, subject to the supervision of the Attorney General, to be paid on a contingent fee basis out of the funds collected by such counsel, the amount of such contingent fee to be fixed by the Attorney General subject to the approval of the Board of Insurance Liquidation. The Attorney General may also employ other attorneys, subject to the supervision of the Attorney General, for legal matters outside of the State of Texas. The amount of compensation for such attorneys shall be fixed by the Attorney General, subject to the approval of the Board of Insurance Liquidation.

"(b) Compensation, Expenses. The compensation of Assistant Attorneys General, stenographers, and investigators, to the extent of their time and effort under the provisions of this Article, shall be fixed by the Attorney General subject to the approval of the Board of Insurance Liquidation. The compensation of such Assistant Attorneys General, stenographers, and investigators, and the expenses of the Attorney General reasonably attributable to his duties under this Article, shall be paid from the funds of the insurer to which the same may be reasonably and equitably allocated. The total compensation paid to Assistant Attorneys General from the assets of insurers and moneys appropriated by the Legislature shall not exceed the amount authorized for similar work in the Attorney General's office by the then current appropriation bill.

"Sec. 20. Ancillary Delinquency Proceedings.

"Whenever under the laws of this State, a custodian or legal representative is to be appointed for an insurer

domiciliary in another state, the Board of Insurance Commissioners of this State shall direct the Liquidator to take possession of the affairs of such insurer. The Board shall enter such order (a) if it finds there are sufficient assets of such insurer located in this State to justify the appointment of the Liquidator, or (b) if ten (10) or more persons resident in this State, having claims against such insurer, file a petition or petitions in writing with the Board, requesting the appointment of the Liquidator. The Liquidator shall have the right to sue for and reduce to possession the assets of such insurer in this State, and shall have the same powers and be subject to the same duties with respect to such assets as are possessed by the Liquidator in the delinquency proceedings of a domiciliary insurer under the laws of this State. The remaining provisions of this Article shall be applicable to the conduct of such ancillary proceedings.

**"Sec. 21. Contracts with Foreign Receiver or Liquidator.**

"In cases where a Receiver or Liquidator of any delinquent insurer has been appointed in some other state, and the Liquidator has taken possession of the affairs of such insurer in Texas, the Texas Liquidator, either domiciliary or ancillary, may, under the supervision of the Board of Insurance Liquidation, contract with the Receiver or Liquidator in such other state for the administration of the affairs of their respective estates in any manner consistent with this Article which will enable the respective Receivers or Liquidators to coordinate their activities in the interest of efficiency and economy.

**"Sec. 22. Borrowing on the Pledge of Assets.**

"For the purpose of facilitating the rehabilitation, liquidation, conservation or dissolution of an insurer pursuant to this Article the Liquidator may, subject to the approval of the Board of Insurance Liquidation, borrow money and execute, acknowledge and deliver notes or other evidences of indebtedness therefor and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or other hypothecation of any or all of the property whether real, personal or mixed of such insurer, and the Liquidator, subject to the approval of the Board of Insur-

ance Liquidation, shall have the power to take any and all other action necessary and proper to consummate any such loans and to provide for the repayment thereof. The Liquidator shall be under no obligation personally or in his official capacity as Liquidator to repay any loan made pursuant to this section.

**"Sec. 23. Other Entities.**

"Whenever a court shall find that the affairs of a corporation or other entity, not an insurer, requires the appointment of a Receiver, and that the affairs of such corporation or entity are interwoven with the affairs of a delinquent insurer to the extent that it is not practical to administer the affairs of the insurer and such other corporation or entity separately, the court may, in its discretion, direct the Liquidator to take possession of the affairs of such corporation or other entity and administer its affairs in conjunction with the affairs of such connection insurer in accordance with the provisions of this Article. When the Liquidator shall have taken possession of such corporation or other entity the expenses of liquidation shall be paid in the same manner herein provided in the case of insurers. When the Liquidator shall have taken possession of such corporation or other entity the term 'insurer' as used in this Article shall then be interpreted to include such other corporation or entity.

**"Sec. 24. Continuation of Existing Proceedings.**

"Every proceeding heretofore commenced under the provisions of this Article prior to its amendment by this Act and under the provisions of this Article prior to its amendment by the Acts of the 54th Legislature, Chapter 267, page 737, shall be deemed to have been commenced under this Article for the purpose of conducting such proceedings henceforth; provided, however, that substantive rights already vested prior to the effective date of this Act shall not be diminished.

**"Sec. 25. Appeal.**

"Where not otherwise provided in this Act, the acts of the Liquidator relative to the affairs of an insurer shall be subject to appeal in the District Court of Travis County, Texas, by an interested party."

**"Sec. 26. Conflicts of Law.**

"In the event of conflict between the provisions of this Article and the



provisions of any existing law, the provisions of this Article shall prevail, and all laws, or parts of laws, in conflict with the provisions of this Article, are hereby repealed to the extent of such conflict."

The amendment to the committee amendment was adopted.

The committee amendment as amended was then adopted.

On motion of Senator Lane and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

#### Senate Bill 97 on Third Reading

Senator Lane moved that the Constitutional rule requiring bills to be read on three several days be suspended and that Senate Bill No. 97 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—26

Aikin	Martin
Ashley	Moffett
Bradshaw	Moore
Fly	Owen
Gonzalez	Parkhouse
Hardeman	Phillips
Hazlewood	Ratliff
Herring	Reagan
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis
Lock	Wood

#### Absent

Bracewell	Roberts
Fuller	Rogers

#### Absent—Excused

Colson

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

#### Yeas—29

Aikin	Bracewell
Ashley	Bradshaw

Fly	Moore
Fuller	Owen
Gonzalez	Parkhouse
Hardeman	Phillips
Hazlewood	Ratliff
Herring	Reagan
Hudson	Roberts
Kazen	Secrest
Krueger	Smith
Lane	Weinert
Lock	Willis
Martin	Wood
Moffett	

#### Absent

Rogers

#### Absent—Excused

Colson

#### Report of Standing Committee

Senator Parkhouse by unanimous consent submitted the following report:

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Water and Conservation, to whom was referred H. B. No. 284, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

PARKHOUSE, Chairman.

#### House Bill 284 Ordered Not Printed

On motion of Senator Phillips and by unanimous consent H. B. No. 284 was ordered not printed.

#### Minority Report on House Bill 187

Senator Lock submitted the following Minority Report on H. B. No. 187:

April 23, 1957.

We, the undersigned members of the Senate Transportation Committee, hereby give notice under Senate Rule 110 of a favorable Minority Report on House Bill 187.

We report House Bill 187 to the Senate with the recommendation that it do pass and be printed. Within the required ten (10) days a motion will be made to substitute this Minority Report for the Majority Report.

We were present at the Committee hearing at which this bill was acted

upon unfavorably and voted on the minority side.

LANE  
WEINERT  
LOCK  
ROGERS  
AIKIN

#### Reports of Standing Committee

Senator Willis by unanimous consent submitted the following reports:

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Education, to whom was referred S. B. No. 456, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WILLIS, Chairman.

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Education, to whom was referred H. B. No. 260, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WILLIS, Chairman.

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Education, to whom was referred H. B. No. 551, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WILLIS, Chairman.

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Education, to whom was referred H. B. No. 253, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WILLIS, Chairman.

#### Senate Concurrent Resolution 71

Senator Martin offered the following resolution:

S. C. R. No. 71, Suspending Joint Rules to consider Senate Bills on Local and Uncontested Calendar.

Be it resolved, by the Senate of Texas, the House of Representatives concurring, That the Joint Rules of the two Houses be and they are hereby suspended, so that the Senate and the House may take up and consider Senate Bills on local and uncontested calendar on April 24, 1957.

The resolution was read.

On motion of Senator Martin and by unanimous consent the resolution was considered immediately and was adopted.

#### Resolution Signed

The Presiding Officer announced the signing by the President in the presence of the Senate after the caption had been read the following enrolled resolution:

S. C. R. No. 70, Enrolling Clerk to make certain corrections in S. C. R. No. 48.

#### Report of Standing Committee

Senator Bracewell by unanimous consent submitted the following report:

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Insurance, to whom was referred S. B. No. 263, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

BRACEWELL, Chairman.

(President in the Chair.)

#### Senate Joint Resolution 1 on Second Reading

The President laid out as pending business S. J. R. No. 1 on its second reading.

Question — Shall the Committee Amendment to S. J. R. No. 1 as amended be adopted?

(Pending discussion by Senator Lock of the resolution Senator Aikin occupied the Chair.)

(President in the Chair.)

(Pending further discussion by Senator Lock of the resolution Senator Hardeman occupied the Chair.)

Senator Weinert offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to Senate Joint Resolution No. 1, Page 3, line 14 of the printed resolution, by adding a new sentence at the end of the paragraph to read as follows:

"The acquirement of storage space and the sale of facilities or water by the Texas Water Development Board shall be subject to the approval of the river authority, conservation or reclamation district, or district created or organized or authorized to be created or organized under Article XVI, Section 59 or Article III, Section 52 of this Constitution, or municipal corporation in which the storage site is located."

The amendment to the committee amendment was adopted.

Senator Aikin offered the following amendment to the committee amendment:

Amend S. J. R. 1 by striking out the second sentence of the second paragraph of Section One of committee amendment, same being lines 32, 33 and all of line 34, page 2, to the end of the sentence.

The amendment to the committee amendment was adopted.

Senator Lock offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1, Senate Joint Resolution No. 1, Page 3, lines 53 and 62 of the printed resolution, by adding after the word "acquiring" the word "non-selfliquidating."

The amendment to the committee amendment was adopted.

Senator Herring offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to S. J. R. 1 by adding the following sentence at the end of line 28, page 3:

"The amount of funds to be invested in any single project from funds provided herein shall not exceed \$6,500,000.00."

The amendment to the committee amendment was adopted by the following vote:

Yeas—18

Aikin	Lock
Ashley	Martin
Bradshaw	Moffett
Hardeman	Moore
Hazlewood	Owen
Herring	Rogers
Hudson	Secrest
Krueger	Smith
Lane	Wood

Nays—9

Bracewell	Parkhouse
Fly	Phillips
Fuller	Reagan
Gonzalez	Willis
Kazen	

Absent

Ratliff	Weinert
Roberts	

Absent—Excused

Colson

(President in the Chair.)

Senator Owen offered the following committee amendment to the committee amendment:

Amend Committee Amendment No. 1, Section 1 by deleting the word "financial" in paragraph Section "52-c."

The amendment was read.

Senator Phillips moved to table the committee amendment to the amendment.

The motion to table prevailed by the following vote:

Yeas—15

Aikin	Hardeman
Ashley	Kazen
Fly	Krueger
Fuller	Lane
Gonzalez	Lock

Parkhouse	Weinert
Phillips	Willis
Reagan	

## Nays—14

Bracewell	Moore
Bradshaw	Owen
Hazlewood	Roberts
Herring	Rogers
Hudson	Secrest
Martin	Smith
Moffett	Wood

## Absent

Ratliff

## Absent—Excused

Colson

Senator Owen offered the following committee amendment to the committee amendment:

Amend Committee Amendment No. 1 to S. J. R. 1 by striking the word "three" in "Section 52-c" and substitute in lieu thereof the word "five."

The committee amendment to the committee amendment was read.

On motion of Senator Owen and by unanimous consent the committee amendment to the committee amendment was withdrawn.

The committee amendment as amended was then adopted.

Senator Parkhouse offered the following committee amendment to the resolution:

Amend S. J. R. No. 1 by striking out Section 2 and 3 thereof and inserting in lieu of said sections the following:

"Section 2: The foregoing Constitutional Amendment shall be submitted to a vote of the qualified electors of this State at an election to be held on the first Tuesday after the first Monday in November, 1957, at which election all ballots shall have printed thereon:

"For the Amendment to Article III of the Constitution of Texas by adding a new Section to be known as Section 52-c, providing for a state program for acquiring conservation storage facilities and authorizing the issuance of state bonds in an amount not to exceed Two Hundred Million Dollars."

and

"Against the Amendment to Arti-

cle III of the Constitution of Texas by adding a new Section to be known as Section 52-c, providing for a state program for acquiring conservation storage facilities and authorizing the issuance of state bonds in an amount not to exceed Two Hundred Million Dollars."

Section 3: The Governor shall issue the necessary proclamation for said election and shall have the same published as required by the Constitution and Laws of this State."

The committee amendment was read.

On motion of Senator Lock and by unanimous consent the vote by which the first committee amendment to S. J. R. No. 1 was adopted was reconsidered and the first committee amendment was laid before the Senate.

On motion of Senator Lock and by unanimous consent the vote by which the amendment by Senator Lock to the first committee amendment was adopted was reconsidered.

Senator Lock by unanimous consent withdrew his amendment to the first committee amendment.

The first committee amendment as amended was again adopted.

Senator Aikin offered the following amendment to the above committee amendment:

Amend committee amendment No. 2 to S. J. R. No. 1 by striking out the word "Two" in line 56 page 3 and insert in lieu thereof the word "One."

The amendment to the committee amendment was adopted.

Senator Lock offered the following amendment to the above committee amendment:

Amend Committee Amendment No. 2, Senate Joint Resolution No. 1, Page 3, lines 53 and 62 of the printed resolution, by adding after the word "acquiring" the word "non-selfliquidating."

The amendment to the committee amendment was adopted.

Senator Aikin offered the following amendment to the above committee amendment:

Amend committee amendment No.

2 to S. J. R. No. 1, page 3 by striking out the word "Two" in line 64 and inserting in lieu thereof the word "One."

The amendment to the committee amendment was adopted.

The committee amendment as amended was then adopted.

Senator Parkhouse offered the following committee amendment to the resolution:

Amend S. J. R. No. 1 by striking out all above the resolving clause and inserting in lieu thereof the following:

"Proposing an amendment to Article III of the Constitution of Texas by adding a new Section to be known as Section 52-c, providing for a state program for the acquisition of water conservation storage facilities and providing for the issuance of State Bonds to finance such development of the water resources of the State."

The committee amendment was read.

On motion of Senator Parkhouse and by unanimous consent the committee amendment was withdrawn.

On motion of Senator Parkhouse and by unanimous consent the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed to engrossment.

#### Motion to Place Senate Joint Resolution 1 on Third Reading

Senator Parkhouse moved that the Constitutional rule requiring resolutions to be read on three several days be suspended and that S. J. R. No. 1 be placed on its third reading and final passage.

The motion was lost by the following vote. (Not receiving four-fifths vote of the Members present.):

Yeas—22

Aikin	Kazen
Ashley	Lane
Bracewell	Martin
Fly	Owen
Fuller	Parkhouse
Gonzalez	Phillips
Hardeman	Ratliff
Herring	Reagan

Roberts	Weinert
Rogers	Willis
Secret	Wood

Nays—8

Bradshaw	Lock
Hazlewood	Moffett
Hudson	Moore
Krueger	Smith

Absent—Excused

Colson

#### Senate Bill 438 on Second Reading

On motion of Senator Hardeman and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 438, A bill to be entitled "An Act to amend Articles 3.42 and 3.43 of the Insurance Code (Acts 1951, 52nd Leg., Ch. 491, as amended) relating to the filing with and approval by the Board of Insurance Commissioners of all policy forms, endorsements, and riders issued by any life, accident, health, accident and health or hospitalization insurance company, doing business in this State; providing specific grounds for disapproval; providing for judicial review of any such orders; repealing all laws in conflict herewith; and declaring an emergency."

The bill was read second time.

Senator Hardeman offered the following committee amendment to the bill:

Amend S. B. 438 by striking out all below the enacting clause and substituting the following:

Section 1. Article 3.42 of the Insurance Code (Acts 1951, 52nd Leg., Ch. 491, as amended) shall hereafter read and provide as follows:

Article 3.42. Policy Form Approval.

(a) No policy, contract or certificate of life, term or endowment insurance, group life or term insurance, industrial life insurance, accident or health insurance, group accident or health insurance, hospitalization, insurance, group hospitalization insurance, medical or surgical insurance, group medical or surgical insurance, or fraternal benefit insurance, and no annuity or pure endowment contract or group annuity contract, shall be

delivered, issued or used in this State by a life, accident, health or casualty insurance company, a mutual life insurance company, mutual assessment life insurance company, mutual insurance company other than life, local mutual aid association, mutual or natural premium life insurance company, general casualty company, Lloyds, reciprocal or inter-insurance exchange, fraternal benefit society, group hospitalization service or any other insurer, unless the form of said policy, contract or certificate has been filed with the Board of Insurance Commissioners and approved by said Board as provided in Paragraph (c) of this Article. Provided, however, that this Article shall not apply to any society, company or other insurer whose activities are by statute exempt from the control of the Board of Insurance Commissioners and which is entitled by statute to an exemption certificate from said Board in evidence of its exempt status; provided, further, that this Act shall not be construed to enlarge the powers of any of the insurers subject to this Article.

(b) No application form which is required to be or is attached to the policy, contract or certificate, and no rider or endorsement to be attached to, printed upon or used in connection with any policy, contract or certificate described in Paragraph (a) of this Article shall be delivered, issued or used in this State by any insurer described in Paragraph (a) of this Article unless the form of said application, rider or endorsement has been filed with the Board of Insurance Commissioners and approved by said Board as provided in Paragraph (c) of this Article. Provided, however, that this Article shall not apply to riders or endorsements which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policies, contracts and certificates, and which are used at the request of the holder of the policy, contract or certificate.

(c) Every such filing hereby required shall be made not less than thirty days in advance of any such issuance, delivery or use. At the expiration of thirty days the form so filed shall be deemed approved by the Board of Insurance Commissioners unless prior thereto it has been affirmatively approved or disapproved by the order of said Board. The Board

of Insurance Commissioners may extend by not more than an additional thirty days the period within which it may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial fifteen day period and at the expiration of any such extended period, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The Board of Insurance Commissioners may withdraw any such approval at any time. Approval of any such form by such Board shall constitute a waiver of any unexpired portion of the waiting period, or periods, herein provided.

(d) The order of the Board of Insurance Commissioners disapproving any such form or withdrawing a previous approval shall state the grounds for such disapproval or withdrawal.

(e) The Board of Insurance Commissioners may, by order, exempt from the requirements of this Article for so long as it deems proper, any insurance document or form specified in such order, to which in its opinion this Article may not practicably be applied, or the filing and approval of which are, in its opinion, not desirable or necessary for the protection of the public.

(f) The Board of Insurance Commissioners shall forthwith disapprove any such form, or withdraw any previous approval thereto, if; and only if

(1) It is in any respect in violation of or does not comply with this Code.

(2) It contains provisions which encourage misrepresentation or are unjust, unfair, inequitable, misleading, deceptive or contrary to law or to the public policy of this State.

(3) It has any title, heading or other indication of its provisions which is misleading.

(g) Appeals from any order of the Board of Insurance Commissioners issued under this Article may be taken to the District Court of Travis County, Texas, in accordance with Article 21.44 of Sub-Chapter F of this Insurance Code, or any amendments thereof.

Section 2. Article 3.43 of the Insurance Code (Acts 1951, 52nd Leg., Ch. 491, as amended) is hereby repealed.

Section 3. All laws and parts of laws in conflict herewith are hereby repealed.

Section 4. Emergency Clause.

The committee amendment was read.

Senator Hardeman offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1, S. B. 438, Sec. 1, Subsection (e), by inserting the word "written" after the word "by" and before the word "order" in the first line of said subsection.

The amendment to the committee amendment was adopted.

Senator Hardeman offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to S. B. 438, Section 1, Subsection (c), by inserting the word "written" in line 64, page 2, after the word "the" and the word "order."

The amendment to the committee amendment was adopted.

Senator Hardeman offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 by striking all of Section 4 and inserting the following:

Section 4. The fact that existing law does not expressly require the Board of Insurance Commissioners to approve or disapprove, by written order, policy forms issued by life, accident, health, accident and health or hospitalization insurance companies doing business in this State, creates an emergency and an imperative public necessity requiring the suspension of the Constitutional rule requiring bills to be read on three several days in each House be suspended, and such rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The amendment to the committee amendment was adopted.

The committee amendment as amended was then adopted.

On motion of Senator Hardeman and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

#### Senate Bill 438 on Third Reading

Senator Hardeman moved that the Constitutional rule requiring bills to be read on three several days be suspended and that Senate Bill No. 438 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Martin
Ashley	Moffett
Bracewell	Moore
Bradshaw	Owen
Fly	Parkhouse
Fuller	Phillips
Gonzalez	Ratliff
Hardeman	Reagan
Hazlewood	Roberts
Herring	Rogers
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis
Lock	Wood

Absent—Excused

Colson

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Martin
Ashley	Moffett
Bracewell	Moore
Bradshaw	Owen
Fly	Parkhouse
Fuller	Phillips
Gonzalez	Ratliff
Hardeman	Reagan
Hazlewood	Roberts
Herring	Rogers
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis
Lock	Wood

Absent—Excused

Colson

#### Motion to Place Senate Bill 451 on Second Reading

Senator Owen asked unanimous consent to suspend the regular order

of business and take up S. B. No. 451 for consideration at this time.

There was objection.

Senator Owen then moved to suspend the regular order of business and take up S. B. No. 451 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

**Yeas—17**

Bracewell	Krueger
Fly	Lock
Fuller	Moore
Gonzalez	Owen
Hardeman	Parkhouse
Hazlewood	Phillips
Herring	Secrest
Hudson	Weinert
Kazen	

**Nays—12**

Aikin	Reagan
Bradshaw	Roberts
Lane	Rogers
Martin	Smith
Moffett	Willis
Ratliff	Wood

**Absent**

Ashley

**Absent—Excused**

Colson

**Senate Bill 444 on Second Reading**

On motion of Senator Herring and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 444, A bill to be entitled "An Act requiring every report, annual report, return, declaration, statement, or other document required to be made by any person, firm, association, company, corporation or other insurance organization under any provision of the Insurance Code (Acts 1951, 52nd Leg., Ch. 491, p. 868, as amended) to be verified by written declaration under penalties of perjury, prescribing the form of verification; providing penalties as against any person who wilfully makes such verification as to matters which are not true in every material matter, or who wilfully aids or as-

sists in, or procures, or counsels, or advises the preparation thereof as to matters which are fraudulent, false or incorrect in any material way, or who simulates or falsely or fraudulently executes or signs any such report, annual report, return, declaration, statement or document, or who aids in, or connives in the execution thereof; declaring that a conviction therefor, punished by fine and imprisonment in the penitentiary; providing a savings clause; and declaring an emergency."

The bill was read second time and passed to engrossment.

**Senate Bill 444 on Third Reading**

Senator Herring moved that the Constitutional Rule requiring bills to be read on three several days be suspended and that Senate Bill No. 444 be placed on its third reading and final passage.

The motion prevailed by the following vote:

**Yeas—29**

Aikin	Moffett
Ashley	Moore
Bracewell	Owen
Bradshaw	Parkhouse
Fly	Phillips
Fuller	Ratliff
Hardeman	Reagan
Hazlewood	Roberts
Herring	Rogers
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis
Lock	Wood
Martin	

**Absent**

Gonzalez

**Absent—Excused**

Colson

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

**Yeas—29**

Aikin	Fly
Ashley	Fuller
Bracewell	Hardeman
Bradshaw	Hazlewood



Herring	Phillips
Hudson	Ratliff
Kazen	Reagan
Krueger	Roberts
Lane	Rogers
Lock	Secrest
Martin	Smith
Moffett	Weinert
Moore	Willis
Owen	Wood
Parkhouse	

Absent

Gonzalez

Absent—Excused

Colson

#### Committee Substitute Senate Bill 100 on Second Reading

Senator Hazlewood asked unanimous consent to suspend the regular order of business and take up C. S. S. B. No. 100 for consideration at this time.

There was objection.

Senator Hazlewood then moved to suspend the regular order of business and take up C. S. S. B. No. 100 for consideration at this time.

The motion prevailed by the following vote:

Yeas—22

Aikin	Moffett
Bracewell	Moore
Fly	Owen
Fuller	Phillips
Hazlewood	Reagan
Herring	Roberts
Kazen	Rogers
Krueger	Secrest
Lane	Smith
Lock	Willis
Martin	Wood

Nays—7

Ashley	Parkhouse
Bradshaw	Ratliff
Hardeman	Weinert
Hudson	

Absent

Gonzalez

Absent—Excused

Colson

The President laid before the Sen-

ate on its second reading and passage to engrossment:

C. S. S. B. No. 100, A bill to be entitled "An Act amending Article 6479 of the Revised Civil Statutes of Texas, as amended by Chapter 198 of the Acts of the First Called Session of the 39th Legislature, as amended by Senate Bill No. 331, Page 281, Chapter III, Acts of the 43rd Regular Session of the Legislature, 1933, relating to passenger service on railroads by prescribing certain conditions under which the requirement of one train a day may be excepted; providing a repealing clause and providing a severability clause."

The bill was read second time and was passed to engrossment.

#### Committee Substitute Senate Bill 100 on Third Reading

Senator Hazlewood moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that C. S. S. B. No. 100 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—24

Aikin	Martin
Bracewell	Moffett
Bradshaw	Moore
Fly	Owen
Fuller	Phillips
Hardeman	Reagan
Hazlewood	Roberts
Herring	Rogers
Kazen	Secrest
Krueger	Smith
Lane	Willis
Lock	Wood

Nays—5

Ashley	Ratliff
Hudson	Weinert
Parkhouse	

Absent

Gonzalez

Absent—Excused

Colson

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

#### Record of Votes

Senators Ratliff, Hudson and Weinert asked to be recorded as voting "Nay" on the final passage of C. S. S. B. No. 100.

#### Senate Bill 45 on Second Reading

On motion of Senator Smith and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 45, A bill to be entitled "An Act making it a misdemeanor, punishable by fine, for any male minor between 14 and 17 years of age or any female minor between 14 and 18 years of age to drive or operate a motor vehicle while under the influence of intoxicating liquor or in such a way as to violate any traffic law of this State; defining the term 'any traffic law of this State'; prohibiting commitment of any such minor to jail in default of payment of fine, but authorizing suspension of his or her driver's license; etc.; and declaring an emergency."

The bill was read second time.

Senator Smith offered the following committee amendment to the bill:

Amend Senate Bill No. 45 by striking out Section 4 and by substituting therefor the following:

"Sec. 4. When any motor vehicle is found to be operated in violation of the provisions of Section 3 of this Act, any peace officer shall remove such vehicle from the public road, highway, street, alley, or beach and shall keep said vehicle and all property therein safely until same can be delivered to the lawful owner thereof or an agent of such owner lawfully licensed to drive such motor vehicle. If the vehicle is not the property of the minor, the officer who removes the vehicle shall immediately notify the owner of the impoundment and place of storage. Such vehicle shall be presumed to have been driven by said minor with the permission of the owner thereof, but such presumption may be rebutted by the owner's executing and delivering to the of-

ficer having charge of such vehicle a verified statement in writing that said owner had not given said minor permission to operate said vehicle. If the owner shall make such affidavit, then said vehicle shall be forthwith delivered to him or his lawfully licensed agent. The officer releasing the vehicle to the owner shall deliver the owner's verified statement to the county attorney. If said vehicle shall be the property of said minor charged with violation of Section 3 hereof, or if the owner thereof shall fail or refuse to execute the affidavit herein provided for, then said vehicle shall be impounded until any fine and court costs imposed upon said minor for such violation, in addition to any storage or other charges incurred in its preservation or protection, be paid; provided that if said fine be not paid within 60 days after it is imposed, said vehicle shall be sold in the same manner as personal property is sold under execution and the money realized from the sale shall be applied in the following order: first, to the payment of expenses incident to the sale; second, to the payment of any storage or other charges incurred in its preservation or protection; third, to the payment of the fine and court costs; fourth, to the payment of any valid outstanding liens against the vehicle as shown by the certificate of title thereto or other written evidence presented to the officer making the sale; and any remaining proceeds shall be paid to the owner of the vehicle. Any such vehicle which is impounded pending trial of the offense may be replevied by the owner thereof or any lawful lienholder thereon upon execution by him of a good and valid bond with sufficient surety in a sum of \$200.00, which said bond shall be approved by the officer having custody of the impounded vehicle and shall be conditioned to return said vehicle to the custody of said officer on the day of trial or, in lieu thereof, to pay any fine and court costs imposed, together with any storage or other charges incurred in the preservation or protection of the vehicle."

The committee amendment was read.

Senator Smith offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to S. B. 45 by adding the following after the period in line 47, page 3 the following:

"This section shall not apply to innocent parties nor shall it operate to destroy any valid lien or any rights under any chattel mortgage, title retention contract or conditional sales contract when the holder thereof is an innocent party."

The amendment to the committee amendment was adopted.

The committee amendment as amended was then adopted.

On motion of Senator Smith and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

#### Senate Bill 45 on Third Reading

Senator Smith moved that the Constitutional rule requiring bills to be read on three several days be suspended and that Senate Bill No. 45 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—29

Aikin	Moffett
Ashley	Moore
Bracewell	Owen
Bradshaw	Parkhouse
Fly	Phillips
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	Wood
Martin	

#### Absent

Lock

#### Absent—Excused

Colson

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

#### Report of Standing Committee

Senator Moore by unanimous consent submitted the following report:

Austin, Texas,

April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Privileges and Elections, to whom was referred H. B. No. 442, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

MOORE, Chairman.

#### Senate Bill 316 on Second Reading

On motion of Senator Roberts and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 316, A bill to be entitled "An Act authorizing the State Building Commission to lease existing buildings situated on property acquired prior to the effective date of this Act by the State Building Commission; making other provisions relating thereto and declaring an emergency."

The bill was read second time and passed to engrossment.

#### Senate Bill 316 on Third Reading

Senator Roberts moved that the Constitutional rule requiring bills to be read on three several days be suspended and that Senate Bill No. 316 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—29

Aikin	Kazen
Ashley	Krueger
Bracewell	Lane
Bradshaw	Lock
Fly	Moffett
Fuller	Moore
Gonzalez	Owen
Hardeman	Parkhouse
Hazlewood	Phillips
Herring	Ratliff
Hudson	Reagan

Roberts	Weinert
Rogers	Willis
Secrest	Wood
Smith	

Nays—1

Martin

Absent—Excused

Colson

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Moffett
Ashley	Moore
Bracewell	Owen
Bradshaw	Parkhouse
Fly	Phillips
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	Wood
Lock	

Nays—1

Martin

Absent—Excused

Colson

#### Committee Substitute Senate Bill 145 on Second Reading

On motion of Senator Fly and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C. S. S. B. No. 145, A bill to be entitled "An Act regulating the marketing of brake fluids in the State of Texas; granting certain powers to the Public Safety Director in connection therewith; providing penalties for the violation of this Act; providing for the confiscation of brake fluids held or sold in violation of the Act; and declaring an emergency."

The bill was read second time.

Senator Bracewell offered the following amendment to the bill:

Amend S. B. 145 by striking out Section 4 and substituting therefor the following:

"Section 4. Standards and Specifications. The Department of Public Safety of the State of Texas hereinafter called the Department, is hereby directed, after public hearing held not more than thirty (30) nor less than fifteen (15) days after the publication in a newspaper of general circulation in the state of notice of the time, place and purpose of such hearing, to adopt rules and regulations establishing such minimum standards and specifications for brake fluids as will promote the public safety in the operation of motor vehicles in this state. Any rules and regulations adopted hereunder may be amended after notice and hearing as herein provided."

The amendment was adopted.

On motion of Senator Fly and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

#### Committee Substitute Senate Bill 145 on Third Reading

Senator Fly moved that the Constitutional rule requiring bills to be read on three several days be suspended and that C. S. S. B. No. 145 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Martin
Ashley	Moffett
Bracewell	Moore
Bradshaw	Owen
Fly	Parkhouse
Fuller	Phillips
Gonzalez	Ratliff
Hardeman	Reagan
Hazlewood	Roberts
Herring	Rogers
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis
Lock	Wood

Absent—Excused

Colson

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

#### Record of Vote

Senator Bracewell asked to be recorded as voting "nay" on the final passage of C. S. S. B. No. 145.

#### House Concurrent Resolution 74 on Second Reading

The President laid before the Senate on its second reading the following resolution:

H. C. R. No. 74, Suspending the Joint Rules to consider Local and Uncontested Bill Calendar.

The resolution was read.

On motion of Senator Martin and by unanimous consent the resolution was considered immediately and was adopted.

#### Vote Reconsidered on Senate Concurrent Resolution 71

On motion of Senator Martin and by unanimous consent the vote by which S. C. R. No. 71 was adopted was reconsidered.

#### House Bills on First Reading

The following bills received from the House, were read the first time and referred to the committees indicated:

H. B. No. 594, To Committee on Counties, Cities and Towns.

H. B. No. 789, To Committee on State Departments and Institutions.

H. B. No. 905, To Committee on Counties, Cities and Towns.

H. B. No. 622, To Committee on Water and Conservation.

H. B. No. 897, To Committee on Counties, Cities and Towns.

#### Bill Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled bill:

H. B. No. 391, A bill to be entitled "An Act amending Chapter 218, Acts

1949, 51st Legislature, as amended by Chapter 304, Acts 1951, 52nd Legislature, providing for two year terms of park commissioners of eligible counties and adding a new section providing that any bonds issued under said chapter shall be authorized by the Commissioners' Court of the county; providing a severability clause and declaring an emergency."

#### Report of Standing Committee

Senator Parkhouse by unanimous consent submitted the following report:

Austin, Texas,  
April 23, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Water and Conservation, to whom was referred H. B. No. 739, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended, and be printed.

PARKHOUSE, Chairman.

#### Special Notice

Senator Aikin gave notice that he would move to suspend the necessary rules to take up H. B. No. 6 on tomorrow.

#### Local and Uncontested Bills Session

On motion of Senator Martin, and by unanimous consent, the Senate agreed to hold a session for the consideration of Local and Uncontested Bills Calendar on Wednesday, April 24, 1957, at 9:30 o'clock a.m.

#### Recess

On motion of Senator Weinert the Senate at 6:01 o'clock p.m. took recess until 9:30 o'clock a.m. tomorrow.

#### FIFTY-SEVENTH DAY

(Continued)

(Wednesday, April 24, 1957)

#### After Recess

The Senate met at 9:30 o'clock a.m., and was called to order by Senator Hardeman.

#### Local and Uncontested Bills Session

The Presiding Officer announced that the time had arrived for the con-